

THE SENATE DEBATES

(OFFICIAL REPORT)

FIRST SESSION 1999 – 2003

THE SENATE

Wednesday, June 6, 2001

THE SENATE

The Senate met in the Senate Chamber, Parliament Buildings, on Wednesday, June 6, 2001, at 11.15 a.m.

PRESENT

His Honour Senator C. L. BOLDEN, C.B.E. (Deputy President)

Senator the Hon. P. C. GODDARD (Minister of Health) (Leader of the Senate)

Senator the Hon. G. S. H. MURRAY, B.A. (Hons.) J.P. (Minister of State, Prime Minister's Office and the Civil Service)

Senator Miss C. Y. FORDE, L.C.P., J.P. (Parliamentary Secretary, Ministry of Education, Youth Affairs and Culture)

Senator T. E. BARKER, B.A. (Hons.), M.A. (Econ.) (Parliamentary Secretary, Ministry of the Environment, Energy and Natural Resources)

Senator the Hon. Dame PATRICIA SYMMONDS, D.B.E., G.C.M., B.A. (Hons.), P.G.C.E., J.P.

Senator G. E. N. BROME

Senator D. D. MARSHALL, LL.B. (Hons.) L.E.C.

Senator C. A. MASCOLL, B.Sc. (Econ.) (Hons.) M.A. (Public Finance)

Senator LeR. H. McCLEAN, B.Sc. (Hons.)

Senator Mrs. P. E. RICKINSON, B.A. (Hons.) M.P.H. (Harvard), S.R.N.

Senator C. K. LAURIE, D.I.C.T.A. (S.T.), FBSTA

Senator Sir JOHN STANLEY GODDARD, K.A., B.Com., C.A., Hon. LL.D. (U.W.I.)

Senator B. R. COLLYMORE, C.M.G.

Senator the Rev. L.W.B. ROCK

Senator Mrs. V. E. NEWTON, S.C.M., B.A. (Spec. Hons.), M.A., LL.B. (Hons.) (U.W.I.), F.L.A. (Gt. Brit.) L.E.C.

Prayers were led by Senator the Rev. L. W. B. Rock.

Mr. DEPUTY PRESIDENT: The Senate is in session.

ANNOUNCEMENTS BY HIS HONOUR THE DEPUTY PRESIDENT

Mr. DEPUTY PRESIDENT: I am to announce that the following Senators will be absent today. They are:

1. His Honour Senator Sir Fred Gollop, the President, who is out of the island; and
2. Senator J. C. Odle who is out of the country.

PRESENTATION OF PAPERS

SENATOR THE HON. P. C. GODDARD: I am commanded to lay the following documents before the Honourable the Senate:

1. Report of the Committee for National Reconciliation.
2. Report of the Committee established to Advise on a Policy Framework for a New Public Service Act.

3. Report prepared with regard to the queries raised on the operation of the Ministry of Finance and Economic Affairs in the Auditor General's Report for the Financial Year ended March 31, 2000.

INTRODUCTION OF BILLS

SENATOR THE HON. P. C. GODDARD: I am commanded to move the First Reading of the following Bills:

1. Road Traffic (Amendment) Bill, 2001.
2. Agriculture Development Fund Bill, 2001.

The question was put to the Senate and agreed to.

PUBLIC BUSINESS

ORDER NO. 2 – THE SECURITIES BILL, 2001

SENATOR THE HON. P. C. GODDARD: Mr. Deputy President, I rise to move the Second Reading of the Securities Bill, 2001. This Bill is brought in the continuing effort of this Government to improve our investment climate and to improve and to regulate our investment profile in Barbados.

As you would appreciate, Mr. Deputy President, the investment environment is a continually changing and evolving environment and as we become more and more part of the international financial framework we need to bring more sophisticated regulations and legislation to bear to improve the transparency of the investments and to enhance the protection of investors who invest in a multiplicity of various financial instruments.

A review of the capital market in Barbados as it is presently structured has raised some concerns about transparency and if the capital market is to develop, then there must be a certain degree of confidence that the operations, the institutions and the regulators can stand scrutiny.

At present, the interlocking nature of directorships could lead to a conflict of interest and this is not helped by the fact that the Securities Exchange of Barbados (SEB) regulates itself, by itself and for itself at the present time. At present, the market in Barbados is very small and, therefore, one may find that a person who is a member of the board of the Securities Exchange of Barbados is an employee, a director or a shareholder of one of the listed companies. One can immediately see the potential for a conflict of interest.

Of significance, therefore, is the proposed establishment of the Securities Exchange Commission. This

Commission would act as a regulator and remove the need for the Securities Exchange of Barbados to regulate itself. Persons selected for the Commission will be of the highest integrity and will be required to follow strict guidelines to ensure that transparency is maintained and to avoid concerns of conflict of interest. In Barbados we have dealt with the issue of conflict of interest for generations, not always well, but in the main, with a reasonable amount of integrity. The new Securities Bill will address the above issues.

Provision is also made in the legislation for the establishment of the Securities Commission, the regulation of the securities market and the capital market and the protection of investors and other related matters.

Since 1994, the Government of Barbados along with four other countries in the region signed an Agreement with the Inter-American Bank's Multilateral Investment Fund to provide financial assistance aimed at upgrading and harmonizing five regional capital markets which were participating in cross-border trading of securities.

The Finance Ministers came to an agreement for the regional upgrade in 1996. Barbados along with the Bahamas, the Dominican Republic and Jamaica as well as Trinidad and Tobago had already started the due diligence process although with respect only to the regulatory framework for securities trading.

These five countries have already determined that the only way to achieve the required transparencies and efficiencies would be by way of electronic trading, computerized clearance and settlements which would require central securities depositories in each country.

An existing problem, however, was that where the legislation or Companies Acts existed in any of the five countries none facilitated modern computer technology. Additionally, the technocrats could not determine the appropriate guidelines for self-regulatory organizations to regulate the computerized environment while they continued to regulate their own trading platforms.

Notwithstanding this fact, the existing securities legislation did not appropriately facilitate a fully computerized environment, Jamaica was first to establish a Securities and Exchange Commission in 1994 to 1995 subsequently making the appropriate amendments to the legislation. Trinidad and Tobago was next to enact its Securities Bill in 1995 with the implementation of a Securities Commission in 1999. In 1994 the Bahamas set up a task force to develop the appropriate legislative framework for the establishment of a Stock Exchange and Securities Commission. The Bahamas Securities and Exchange Commission is now fully established and its Stock Exchange went into operation on May 12, 2000.

The Barbados Securities Bill seeks to repeal and replace the existing Securities Exchange Act, Cap 318A, of 1982. This approach was adopted after the 1996 annual meeting of the Barbados Western/Hemisphere Finance Ministers. At that meeting, the Barbados Minister of Finance agreed with other finance ministers in the region that, *inter alia*, in order to continue to attract foreign portfolio investments in the region, it would be necessary to strengthen the existing Capital Market structure and related regulatory framework. Also determined was the need for up-to-date payments, clearance and settlement systems within the region by way of the development and connectivity of Central Securities Depositories within the markets.

The Barbados Government undertook a comprehensive review of the existing legislative structure and regulatory framework, and consultants determined that in order to bring the Barbados Capital Market to any level of efficiency, the securities market in particular needed depth and liquidity. In addition, most of the specific areas of weakness in regulation identified by the ministers needed to be addressed at a very early stage in the process. These areas were payments, clearance and settlements, corporate governance, an upgrade in the method of trading securities and an introduction of new financial products to the marketplace.

Other issues which needed to be addressed with respect to the capital market and securities trading included several identified weaknesses in the current legislation used to regulate the markets, namely the existing Act 318A and the Companies Act 308 and the Bye-laws and Rules of the Exchange. The existing Securities Act was inadequate to regulate the manual environment, for example, there were no powers of compliance or enforcement under the existing legislation.

11.25 a.m.

Basically, this Act only facilitated a physical location for trading securities. The legislation would have been completely ineffective, therefore, in regulation of the proposed computerized environment.

The Companies Act needed additional provisions with regard to regulating takeovers and mergers, prospectuses and insider trading. The Securities Exchange of Barbados (SEB) needed revamping with respect to its corporate governance and organizational structure as well as its Board of Governors. In general, corporate governance within the financial market needed to be reviewed and properly regulated. There were existing conflicts of interest common to the system, beginning with the SEB as a self-regulatory organisation which regulates itself, by itself and for itself; recognition that the market was in need of an upgrade of the physical structure (manual trading using an open outcry auction was currently the method of trading); the need to

provide for the administration of self-regulatory organisations (SRO), electronic trading and computerized clearance and settlement.

To date, Barbados has advanced with the physical upgrades relating to the harmonization of Caribbean Stock Exchanges projects. Electronic matching of trades has been in operation since July 4, 2000 and an entity for the operation of a Central Securities Depository has been established as the Barbados Central Securities Depository Inc. (BCSDI), a wholly owned subsidiary of the SEB. However, until this new legislation is enacted, the BCSDI's activities are limited to corporate actions (management of share books) and facilitating new issues of securities only in a fully dematerialized environment. In other words, the BCSDI cannot start to immobilise existing share certificates or process cash settlements for trades electronically without the use of several contracts and agreements between brokers and their clients, brokers and the CSD, brokers and their settlement banks and brokers and the Central Bank of Barbados. This in many ways nullifies the benefits of the CSD. The Bill therefore makes provision for:

1. The legal framework for the operation of a computerized market;

The establishment of a Securities and Exchange Commission, which will regulate the market operations and its practitioners; and

2. It provides guidelines for self regulatory organisations (SRO's)

During this process of development of the Bill there were consultations with several industry professionals and with the commercial community.

In May 1999, the Australian Consultant on the clearance and settlement environment, Mr. Althea Morrissey reviewed the legislation with respect to the establishment of a Central Securities Depository.

The Committee which reviewed the Bill was chaired by Sir Henry Forde, Legal Counsel for the SEB with assistance from Ms. Sandra Osbourne, Legal Counsel and Company Secretary to the Mutual Group of Companies, Ms. Jacqueline Cornelius of Epsworth Chambers and Ms. Wendy Straker of Juris Chambers.

There were also inputs from the accounting and taxation fraternity from the Ministry of Finance and Economic Affairs. There were several independents and commercial community.

The Bill provides effective detailed guidelines and rules for:

- (a) the establishment, functions and powers of the Securities Commission (SEC);
- (b) the staffing of the SEC;
- (c) the finances of the SEC;
- (d) the Barbados Stock Exchange and the Central Securities Depository Inc.;
- (e) the self-regulatory organisations;
- (f) registration of market actors;
- (g) registration of issuers and securities;
- (h) distributions;
- (i) e-market conduct and regulation;
- (j) depository and clearing facilities;
- (k) dealing by persons connected with issuers;
- (l) civil liability; and
- (m) enforcement.

Part I of the Bill deals with the establishment, functions and powers, staffing and finances of a Securities and Exchange Commission (SEC).

1. The SEC will effectively become the "watchdog" of the Barbados Securities Market. Its duties include surveillance of and the imposition of penalties for malfeasance on the part of participants and practitioners within the market.
2. Provision is also made for the SEC to interact with the entire financial market, including the Central Bank of Barbados.
3. Stringent provisions are included with respect to the conduct of Commissioners in matters of arbitration.
4. the Bill also refers to the appointment of a General Manager and staff of the Commission; additionally it designates the reports and financial foundation of the Commission.

Part II on page 36 of the Bill deals with the Barbados Stock Exchange and the Central Securities Depository Inc.

The Bill provides for the Securities Exchange of Barbados (SEB) to be renamed the Barbados Stock Exchange without any impact on the operations of the SEB. The provisions are also clearly outlined for the operations of the Barbados Central Securities Depository Inc., which will be responsible for the computerised clearance and settlement for all securities in either an immobilised or fully dematerialised environment.

11.35 a.m.

Part III on page 39 relates to the self-regulatory organisation. The inclusion of this section in the Bill addresses the problem of the SEC regulating itself, for itself and by itself. The legislation provides for the SEC to be a self-regulatory organisation which will include the Barbados Stock Exchange and the Barbados Central Security Depository, which is also a SRO.

Currently, all listed companies, members and market practitioners of the SEB are regulated by the SEB. The SEB also adjudicates shares for all public companies whether or not they are listed. After this legislation is enacted, the only market activities which the Stock Exchange will be responsible for regulating, will be its members and the trading platform. Under this section of the Bill, all public entities listed or not, including SROs must register with the FCC in accordance with the legislation and meet certain regulatory requirements before carrying out any business.

There are also ongoing disclosure and reporting requirements for SROs as well as the code of conduct to be adhered to by market practitioners. Guidelines are provided with regard to the characteristics of self-regulatory organisations; process of an application; granting or refusal of registration; obligatory rules, which refer to the rules of an applicant for registration as a self-regulatory organisation and procedures to be used when it is proposed to amend the rules; control of commissions and fees of service; conditions of membership; filing; de-listing of securities; appointment of auditors; keeping and inspection of records; contingency funds to compensate customers for losses resulting from insolvency; bankruptcy or default of a member of the organisation or a registrant who contributes to the fund; sanctions for contravention of the rules, complaints and disputes between member companies.

Part IV from page 53 relates to protection or registration of market actors. This comes under the general area of investor protection.

The legislation states that:

"No self-regulatory organisation registered under this Act may admit to membership or grant licence to any person who is not registered with the Commission under this Act."

The six categories of businesses are defined as follows:

- (a) a broker;
- (b) an investment advisor;
- (c) a dealer in securities;
- (d) a trader in securities;
- (e) an underwriter in securities;
- (f) a securities company.

Requirements are set out for registration, suspension or revocation under each of the above categories.

The legislation, as previously stated, provides for issuers of securities to be registered. It also provides that no securities should be offered to the public or listed with any self-regulatory organisation unless the security is registered with the Commission.

A reporting insurer is also required to file annual reports, including financial statements, as prescribed by the Commission.

Part VI on page 59, entitled Distributions. This part of the legislation defines distribution in relation to any securities to include an offer to sell securities. Specifications are provided with regard to the following areas:

A "block distribution circular". It outlines the prospectus requirement; the offer to sell a security; the delivery of prospectus; the contents of prospectus; supplementary prospectus; expert's consent – this requires that written permission be obtained to include expert statements and a prospectus; exemption; receipt for prospectus; amendment of prospectus and the exemption from stamp duty.

Part VII (Page 82) – Market conduct regulation. This section of the legislation explains in detail how the market actors are expected to behave. It included direction with regard to the following:

- (i) Market rigging transactions. It is not permitted to make it appear that a security is being actively traded to induce a person to buy. In other words, you just cannot capture the trading of a particular stock listed on the Stock Exchange.
- (ii) Inducement to purchase or sell securities by dissemination of information. Information disseminated must be accurate and must not be false and deliberately intended to make the price

of a security rise or fall. We have seen instances recently on the New York Stock Exchange and NASDAQ, where people have been trying to manipulate market trading by disseminating false information and those individuals have been charged since then.

- (iii) Employment of deceptive device. No deceptive device should be employed which could lead to fraud.
- (iv) Restrictions on recommendation. Recommendations must, to the best of the registrant's knowledge suit the customer. In other words, it is recommending to customers the type of investment they should undertake and each particular investor might have special needs depending on their age, family situation, objectives of their investment as to whether it is higher than normal capital growth or whether or not it is to have a steady flow of income for retirement. The promotion of the investment must reflect the need of the prospective investor.
- (v) Excessive trading. "No registrant or employee of the registrant shall effect trades that are excessive in volume or frequency with or for a customer in respect of whose trading he is in a position to exercise determinative influence by reason of the customer's willingness to accept his recommendations".

This essentially is known as "churning". A company can use a client's account to buy and sell frequently to gain excessive commission to the detriment of the investor.

- (vi) Commission prescribing standards of conduct for registrants;
- (vii) Disclosure of interests by registrant;

In other words, if a registrant has an interest in a particular company that they are recommending to anyone for investment, they must disclose that interest.

- (viii) Disclosure of policies and practice;
- (ix) Trust accounts
- (x) Registrants to send documents to beneficial owner;
- (xi) Confirmation to be sent to customers. In other words, customers must be kept fully informed of their trading activities.
- (xii) Notification for the Commission;

- (xiii) Restriction of trading at residence;
- (xiv) Control of advertisement;
- (xv) Seller of a security to declare non-ownership where appropriate;
- (xvi) Declaration as to short position. In other words, you must disclose whether you are shorting a particular stock.
- (xvii) Standards of conduct for persons trading in unlisted securities. That is, securities that are not listed with the SEC and it details the information with the Commission.
- (xviii) Prohibition on the use of the name of another registrant;
- (xix) Representation as to registration.

11.45 a.m.

Section 93: Prohibition on the use of name of another registrant.

94: Representation as to registration.

95: Holding out by unregistered persons.

Part VIII. Depository and clearing facilities.

Section 99: Registration of securities by Depository.

Securities must be registered in the name of the beneficial owner. In other words, the beneficial owner must be identified.

100: Transfer of securities through the Depository.

"Immediately after receipt of a security certificate, the Depository shall deliver the certificate to the issuer and request the transfer of security, evidenced by the certificate to the Depository..."

101: Transfer by book entry.

"On receipt of instructions in writing from a participant and in the case of a blocked account, from the person who exercises control over it, the Depository shall in accordance with those instructions, effect a transfer of a security from the participant to another participant by a book entry."

102: Blocked Accounts

"The Depository shall establish a procedure whereby it or an interested person may exercise control over a participant's account in the Depository where the interested person is, in relation to a security in the participant's account, a beneficial owner, a pledgee or a judgment creditor of the beneficial owner; or

- (a) security in the participant's account is subject to a lien in favour of its issuer or to a restriction or constraint on its transfer."

103: Effecting a pledge by book entry.

"On receipt of instruction in writing from a participant and in the case of a blocked account, from the person who exercises control over it, the Depository shall in accordance with the instructions effect a transfer by way of pledge of a security from the participant to a pledgee by making an entry in its records to block an account in the name of the participant in favour of the pledgee for the amount of the debt or other obligation or the number of securities pledged.

- (2) On receipt of instruction in writing from a pledgee in whose favour a transfer of securities has been effected under subsection (1) stating that he is entitled to realise the securities in the blocked account, the Depository shall, in accordance with the instructions realise the security unless,

- (a) it knows the pledgee is not entitled to realise the securities; or

- (b) its procedure established pursuant to section 102(1) specifies otherwise.

- (3) The Depository is not liable for any loss resulting from any compliance with the instructions of a pledgee under subsection (2) unless the Depository knows before the transfer that the pledgee is not entitled to the securities."

104: Effecting blocked account by book entry.

105: Security subject to restriction.

"The Depository may refuse to open an account in respect of a security that is subject to,

- (a) lien in favour of its issuer, or
- (b) restriction or constraint on its transfer."

106: Blocking account by court order.

"On the application of a creditor who has a judgment against the beneficial owner of a securities held by the Depository the Court may order the Depository to make an entry in its records to block an account in the name of the beneficial owner, or his agent in favour of the judgment creditor for the amount or number of securities mentioned in the order."

107: Limitation on rights of participants.

108: Withdrawal of a security.

109: The issuer's duty to request list of participants.

"Where the Depository holds a class of securities of an issuer that proposes to close its securities register or fix a record date in respect of the class for the purpose of determining security holders entitled,

- (a) to receive notice of or to vote at a meeting of security holders,
- (b) to receive payment of a dividend or interest,
- (c) to participate in a liquidation distribution, or for any other purpose, the issuer shall give the Depository such notice as may be prescribed of his intention to close its securities register or fix a record date.

(2) The issuer referred to in subsection (1) shall request from the Depository a list of the names of the beneficial owners for whom the Depository holds securities of the class mentioned in that subsection made up as of the date on which it proposes to close its register or fix a record date.

(3) On receipt of demand in writing from an issuer ... the Depository shall within 7 days provide the issuer with a list setting out;

- (b) the names and address of; and
- (b) the number or amount of securities of the class held for, each such participant made up as of the date specified in the demand."

This brings a lot more discipline to the understanding and nature of who are the shareholders of a specific company. It certainly has some implications in the combat against money laundering.

Part IX – Dealing by persons connected with issuers.

Section 115, subsection (1) says: "Any reference in this Act to price-sensitive information in relation to any securities of an issuer is a reference to specific unpublished information which, if generally known, might reasonably be expected to affect materially the price or value of the securities.

(2) For the purposes of this Act, a person is connected with an issuer only if

- (a) he is a director of that issuer; or
- (b) he occupies a position as
 - (i) an officer (other than a director) or employee of that issuer or a related company, or
 - (ii) a position involving a professional or business relationship between himself (or his employer or a company of which he is a director) and the issuer or a related company,

which, in either case, may reasonably be expected to give him access to information which, in relation to securities of either company is price-sensitive information and which it would be reasonable to expect a person in his position not to disclose except for the performance of his functions.

(3) In this section "related company" in relation to a company means a body corporate which is the subsidiary or holding company of that company or the subsidiary of that company's holding company.

Section 116 relates to the prohibition of buying or selling of securities by certain persons. "Subject to section 119, a person who is, or at any time during the previous 6 months has been knowingly connected with an issuer shall not buy or sell or participate in any transaction on any securities exchange, or other self-regulatory organization relating to securities of that issuer if he has information which:

- (a) he holds by virtue of being connected with the first mentioned issuer;
- (b) it would be reasonable to expect a person so connected, and in the position by virtue of which he is so connected, not to disclose, except for the proper performance of the functions attaching to that position,
- (c) he knows is price-sensitive information in relation to those securities."

Part X – Civil Liability.

Section 123. Persons liable for damage re: untrue statement, *et cetera*, in prospectus.
11.55 a.m.

Part XI on page 114 relates to enforcement. This part of the legislation provides for:

1. The Minister to make Regulations.
2. The publication of proposed regulations.
3. The power to make orders.
4. Appeal and conduct of hearings.
5. Investigation of Contraventions.
6. Conduct of Hearings.

Under 132 (1), "A person affected by a rule of the Commission may appeal to the Court against the application of that rule to him", so that there is an appeal process through the court system.

Investigations of the financial affairs of registrants and others is an exceptionally important section of this Bill.

Under 133 (1), "The Commission may, by instrument in writing, appoint a person to conduct an investigation to ascertain whether any person has contravened, is contravening or is about to contravene this Act.

(2) A person appointed by the Commission, subject to subsection (1), may issue a subpoena or other request or summons requiring a person to attend at a specified time and place, to testify to all matters relating to the subject of an investigation and to produce all records relating to the subject of the investigation that are in possession or under his control."

This outlines the nature and the powers of that investigation and under subsection (8), "the Commission may publish a report or other information concerning an investigation under this section, but if it intends to do so it shall:

1. give a person against whom an adverse finding is to be made, 14 days' notice of the finding and an opportunity to be heard in person or by counsel; and
2. if practicable, give a person who is likely to receive adverse publicity advance notice of the publication and a reasonable opportunity to prepare a response prior to the publication."

Investigation of financial affairs of registrants and others is under section 135 and gives the Commission powers, by instrument in writing, to appoint a person to examine the records and financial affairs of registrants.

Under 138, in order for a penalty where the Commission, after a hearing, determines that a person has contravened this Act, or any rule or order of the Commission and considers it to be in the public interest to make the order, the Commission may order the person to pay the Crown a penalty of an amount not exceeding \$50 000, so that is a cap on the penalty that may be levied.

Every penalty imposed by the Commission in the exercise of its powers under this Act shall be payable into the general revenue and may be recovered by the Crown as a civil debt for the purposes of the proof of such debt. A certificate under the hand of Chairman or the General Manager of the Commission shall be receivable in evidence as sufficient proof of such debt.

Where the Commission considers that a person has failed to comply with or is contravening this Act or regulation or any rule or an order, the Commission may, in addition to any other powers that it may have, apply to the court for a permanent or temporary injunction, directing:

1. The person to comply with or to cease contravening the Act, regulation, rule or the order; and
2. The directors and senior officers are the persons to cause the person to comply with or to cease contravening the Act, regulation, rule or the order.

The Bill also makes provision for

- (a) The appointment of receivers
- (b) Disqualification of directors
- (c) Offences; and
- (d) Liability of directors.

Finally, Mr. Deputy President, the Bill repeals the Securities Exchange Act at Section 144, so that is a Repeal of Cap. 318A. The Schedule to the Bill is attached.

Mr. Deputy President, I think this Bill is very thorough and detailed. It is one that will significantly enhance the trading and exchange of financial instruments. It will significantly enhance the investment climate in Barbados and we should recognise, once again, that this is a work in progress and this Bill clearly will continue to evolve and

continue to develop, as we gain greater experience and as we see the changing nature of financial instruments that come on the marketplace. This is a significant piece of legislation which will redound to the benefit of Barbados and to the wider Caribbean, as we become part and parcel of the Single Market and Economy of CARICOM.

Mr. Deputy President, I beg that this Bill be now read a second time.

SENATOR C. A. MASCOLL: Mr. Deputy President, I rise to do something that I do not normally do and that is to praise the Minister responsible for the Securities Commission. I am doing so because I regard the members and the Chairman of the Securities Commission to be of noted quality and men of very good standing who are very capable of conducting the affairs of the Securities Commission.

Asides.

SENATOR C. A. MASCOLL: Well, the Chairman is no less a person than Sir Neville Nicholls. I do not recall all the names and I just want to give a broad appreciation to Dr. Frank Alleyne and the other very noted members. Suffice it to say, that my comments are not just about the quality of the men on the Board but the task that lies ahead in that while I understand the importance of the Bill I am not so convinced that the Bill itself would do the job of enhancing and increasing investments in the way in which we would like to see in Barbados.

12.05 p.m.

What I am convinced about though is that the task of this Commission ought to go way beyond the boundaries of Barbados and it is in that regard, in fact, that the selection of the Chairman stands out having served as the President of the Caribbean Development Bank for so many years. He is ideally placed and suited to carry the process way beyond Barbados and wide and deep into the CARICOM region. A wonderful choice for the Chairman of the Securities Commission.

Asides.

SENATOR C. A. MASCOLL: That is why I have to say that the work of the Commission cannot be confined to Barbados and that I will now seek to explain. First of all, we need to understand the existing securities environment and the existing Securities Exchange of Barbados which was established on June 01, 1987 about five years after the proclamation of the Act in 1982. To date, when you check the actual statistics and the work done by the Securities Exchange in the form of the quantity of shares bought and sold, the quantity has not been impressive. It remains a very small and insignificant Securities Exchange. Of course, part

of the amendment or the reason why this Bill was brought is to deal with many of the problems that the Securities Exchange of Barbados encountered over the years including potential insider trading or knowledge.

I am concerned about our investment climate in Barbados. I will hasten to add that it is the Government of Barbados that, in fact, deals, sells and buys substantially more securities than the private sector. I make that observation because it must be apparent that the Government's role in this market is going to be exceedingly critical in the future. That is why I was thinking whether or not the Securities Commission should not have some say since it is being asked to regulate the securities markets and the capital markets in making some determination as to the level of securities that any government is permitted to put on the market.

Now, I also understand from the Bill that there will be interaction with the Central Bank of Barbados. Everybody knows or would have heard about the Ways and Means account at the Central Bank of Barbados in the early 1990s when it was increased from 10 per cent of estimated revenue to 17.5 per cent.

Asides.

SENATOR C. A. MASCOLL: Now, that is not significant and indeed if I was I would be justly proud given the subsequent events in Barbados.

But I am saying that a lot of attention was placed on what we call the printing of money without recognising that Government also has access to a lot of funding by way of the securities market and the bonds, the selling of debentures and Treasury Bills and other such things. So while it appeared to be political to talk about printing money at the time, on several occasions Government would have used an alternative source of funding and that was not confined to the early 1990 period at all. In fact, in the 80s we had our worst case of excessive borrowing on the part of Government in the 1981/82 period when the fiscal deficit of Barbados reached unprecedented levels at the time. That was the 1981 period.

We visited the International Monetary Fund but we did not engage in the kind of comprehensive programme which happened 10 years later. That was sad too because had we engaged in such a programme in the early '80s we would have stalled what happened in the early '90s. So I am concerned that when it comes to the securities market that somebody, some institution or a set of institutions should have some say in what level of securities Government is allowed to put in the marketplace at any given time. It cannot be just a question of the private sector being regulated and

monitored but it has to be that the Government itself must, in fact, be accountable in this new securities exchange environment.

If you check the reality of the securities market in Barbados you will see that treasury notes and debentures and other such things are excessive in quantity. I will not go into the details because it is not necessary, but you can check any Central Bank of Barbados publication and see such securities that exist which are really within the Government sector and not the private sector, and that is a critical point that must be made in this debate.

Asides.

SENATOR C. A. MASCOLL: I would hear that you cannot allow certain individuals or commissions to cross the boundaries of Government but I am still suggesting that since Government is the major player in the securities market that in the absence of being able in some sense to hold them in then you are not so certain that you can reap the kinds of rewards that you are seeking to reap without having that capacity to regulate the Government sector itself. That is my concern.

The major concern is that in the CARICOM region where we definitely need to coordinate systems in the region – our tax systems for sure needs to be coordinated. That is a precondition for harmonization. We need to look at all kinds of things that can facilitate cross-border investments. We need to look at corporate tax. We need to look at the treatment of income tax. We need to be able to permit other countries within the region to freely invest in Barbados. In fact, that is a major area of concern in Barbados that while we criticise the Trinidadians we still have found ourselves at their door steps to borrow over the last two years. We have to appreciate that the financial resources in Barbados are too limited to achieve what we are seeking to achieve and investment is a necessary component for growth. It is what can fuel the engine of the economy and it can create jobs. We have to seek to facilitate investment in Barbados from our brothers in the region and not restrict investment.

12.15 p.m.

I marvel many times at the way business is done in this country because not too long ago we were seeking to prevent the Trinidadians from becoming involved in Pine Hill Dairy and Banks Brewery Limited and we were hearing a lot of outcry about the dominance of Trinidadians in the investment arena in Barbados when, all that time, we were still seeking to prepare a Single Market and Economy which we knew was only two years away. On the one hand, in order to please local entrepreneurs and investors we were pretending that we had to put some blockade in the way in

order to protect them while we were in the board rooms negotiating the process of free trade, particularly a Single Market and Economy within the region.

Mr. Deputy President, the fiasco that is going around with K-mart is remarkable because it cannot be prevented from coming to the shores of Barbados but in order to please some major player in the investment arena an Advisory Council was established to waste time and to stall the inevitable.

It is absolutely ridiculous for our investment decisions to be made outside of the market. Therefore, I am saying that market forces, since we are seeking to establish security and capital markets, have to be used to determine the investment levels in Barbados and the establishment of any advisory council. The important point that has to be made is that market forces would have to be used to make that kind of determination.

What do we do about the use of taxation in facilitating this process if we are saying that we are really making strides towards coordination and harmonisation within the region as far as taxation is concerned, which is critical for investment climate and everything else in the affairs of a new CARICOM economy. Do we not see that this Bill has more to do with facilitating the process within the region than it has to do with the minimal levels of investment available within Barbados itself? I am, therefore, suggesting to you that introducing a new Bill will not make any substantial difference to the level of activity on the Securities Exchange of Barbados or the tightening Stock Exchange in Barbados. What is important is for any such arrangement to facilitate new levels of investments from within the region and since we are in the process of globalisation and have signed all kinds of documents under WTO ruling, we also have to seek to facilitate foreign investment.

I do not know why all of a sudden it appears to be a major concern because we know in the 1960s, in the region, all of the CARICOM economies did well with some measure of foreign investment. Why then was it okay to facilitate foreign investment and all of a sudden, some in our midst appear to be asking Government to restrict any level of foreign investment that appear to offer some degree of competition to them? Well, that is myopic since we know that the Protocols of CARICOM are subordinate to WTO. We also know that whatever we do to facilitate investment within CARICOM or any business within CARICOM that similar conditions will have to apply to any other foreign investor outside of CARICOM.

In short, the principle of non-discrimination is a major principle under WTO. The principle of Most Favoured Nation Status, that is, whatever you do for your best friend you must do for your worst enemy, is the principle under

Therefore, you cannot prevent reputable investment from occurring within Barbados. Of course, there is a measure of deceit where you encourage Price Smart and then you protect yourself against K-mart. I use the measure of deceit not specific to Government...

Mr. DEPUTY PRESIDENT: I was just going to ask the Honourable Member to withdraw the term "deceit", because in that context it refers to those who have to grant authority. I do not think Parliament can condone such a word.
12.25 p.m.

SENATOR C. A. MASCOLL: It is important that we understand that the whole process is one of facilitation, that is what it is.

Asides.

SENATOR C. A. MASCOLL: Let me get to some specifics within the Bill because I find it extremely strange that an advisor in securities could mean, I quote page 62: "The following persons may act as Investment Advisors without registration.

- (a) An insurance company registered under the Insurance Act;
- (b) A licensee under the Financial Institutions Act.
- (c) An attorney-at-law or an accountant.

I really do feel that the profession, which I happen to be a member of, needs to do something to elevate itself. I say that not lightly because I have benefited from the fact, and I say this publicly, that the present Prime Minister is an economist. As a result, his elevation to that office has, in fact, done a lot for the profession to be recognised.

Sir, what is unfortunate is that we have not yet set standards for people to register and to be officially known as economists. I say that because when I look in this Securities Bill and I see that there is no listing of an economist to advise people of investment but a lawyer or even an accountant can do so, it hurts. Do you know why it hurts? It hurts because there is no profession in this country or beyond this country that can better advise people on investment.

In fact, in the United States of America in every major financial institution there is a Chief Economist heading the entire entity, but within the region there is little or no recognition for this profession called Economics. It is an unfortunate thing because...

Asides.

Mr. DEPUTY PRESIDENT: Order, please. Order, please.

SENATOR C. A. MASCOLL: It is an unfortunate thing because I cannot see how an investment advisor without being registered could exclude a profession that is absolutely responsible for an appreciation of how investments occur. Sir, you only need to watch CNN Financial News and all the gurus are economists; but you have a Securities Bill – I do not take this lightly because I see the Bill beyond Barbados, and I see that at some point in time there will be cross-border investments. What may happen is that the very members of the Commission, whom I spoke so glowingly of, may have sooner rather than later become part of a Caribbean team in terms of managing capital markets across the region.

Sir, that is why I am saying that my decision this morning to praise the Honourable Minister comes from the perspective that the Chairman in particular, and other members of the Commission are of outstanding quality when we look beyond Barbados. I do not see any Bill inspiring any greater levels of investment in Barbados and I speak that from the heart. Sir, this has little to do with investment and more to do with facilitating investment beyond the boundaries of Barbados.

It is not that the economy of Barbados is going to turn around all of a sudden and that we are going to see greater levels of investment and opportunities in Barbados. What has to be done here is that we need to provide a framework within which investment can be facilitated predominantly from outside of Barbados and within the region and, if needs be, certainly, further afield.

The choice of members to sit on the Securities Commission has been an outstanding choice. I cannot hold that back. After nearly seven years in office, the decision must be seen as good in my eyes.

Asides.

SENATOR C. A. MASCOLL: I suggest that there is a need to look at this Bill again. What is strange about the Bill – you will note that I am taking my time – is that it says in section 49, and it is talking about every application for registration as a dealer in securities, any application shall be made to the Commission in the prescribed form and shall be accompanied by such fees as may be prescribed.

It goes on to sub-section (g) which says: "shall be an individual or a company that has in its full time employment an individual who has been awarded... a professional qualification."

The first area is Economics. Perhaps, it is a misprint but note that it says that it should have in its full-time employment, that is, the first area of recognition is the economics profession. Sir, be you a lawyer or an accountant who knows absolutely nothing about investment and without being registered, you can act as an investment advisor under the terms and conditions of this Bill.

Sir, it cannot be fair. I do not need to blow my own trumpet because that is dangerous. I am seeking to blow a trumpet for a bigger profession. I am sending out a call to an actual society, The Barbados Economic Society, to see that at some point it makes a decision to make the profession more recognisable.

It is not fair for people on call-in programmes to be referred to as economists and then a call is made to me to come and debate an individual on a call-in programme.

Asides.

SENATOR C. A. MASCOLL: Sir, when I say that it would be madness, I am then treated as if I am arrogant. I am supposed to go on a call-in programme to debate a mock economist who has not been trained for a year, a month or a day. If a lawyer is on the programme, could you call a mock-lawyer to debate a lawyer or if a doctor is on the programme, could you call a stand-pipe doctor to debate with a doctor?

Asides.

SENATOR C. A. MASCOLL: Sir, when I was called, I said this is madness, why should I come on a call-in programme to debate an economist that is mock.

Asides.

SENATOR C. A. MASCOLL: I was told that I am arrogant, because they have very little respect for the profession. There is very little respect for the profession. Time has shown all those out there that the profession should not be taken lightly. In fact, there is substantial evidence to show that you should never take an economist lightly, because if you look at the prevailing winds in Barbados, you will see the nature of the individual who presently controls the reins in Barbados. He was taken lightly and time has certainly shown that he should not be taken lightly.

Asides.

SENATOR C. A. MASCOLL: Whoever he or she is that I may be speaking of, he always listens. He pretends not to listen when I am speaking but I am aware that he listens. I am told by a staff member that he listens.

I have some real problems with parts of the Bill and this is very personal and dear to me. I understand what the Bill is seeking to achieve; I understand the need to establish a Securities Commission; I have praised only too much the members of the Commission who have been chosen. They are quality people and I repeat that you cannot get better than Sir Neville Nicholls as the Chairman of the Securities Commission. You cannot get better than that. Believe it, in this new global regional CARICOM environment, he is the perfect individual to be the Chairman of the Securities Commission and he has a wonder team to work with.

I am going to end by saying that I do not expect any major new products to come out because our markets are too limited. I do not expect any substantial change in the investment climate in Barbados as a result of the Bill. I do not expect to see a re-emergence of the manufacturing sector because a visit to BMEX would show that there is little that Barbados has to offer in the manufacturing sector. Indeed, it was outclassed by the presence of Jamaica exhibitors over the last weekend. When you say these things, you are told that you are unpatriotic, that you want businesses to shift to Trinidad, when in actual fact there are major businesses in Barbados which are now locating their head offices and management and accounting sections in Trinidad.

Again, once I am permitted to use the word, there is a measure of deceit in the analysis of what is really happening in Barbados. Once you seek to provide the truth, when you seek to provide sound analysis, you are castigated. Sir, you then have an individual parading as a Pan Africanist, who understands nothing about economics, but who sees everything in terms of black and white; who sees everything in terms of race; who analyses everything in a myopic way and is permitted to write lines of garbage in newspapers; an individual who is lost in the past on issues pertaining to the economy and globalisation and confused, a very confused individual.

Asides.

SENATOR C. A. MASCOLL: I cannot call his name. He is the major Pan Africanist in Barbados.

Sir, what is amazing is that the Pan Africanist now sits comfortably in the same room as the most conservative elements in the investment arena in Barbados. Sir, you have contradictions of all sorts. Security markets being established to "guarantee greater investment" across the length and breadth of the landscape of the manufacturing sector, tourism, in big and small hotels but yet you have an individual, who sees all kinds of injustices under every rock, there present sitting beside all the others in the board room. What a contradiction that is not sustainable!

Asides.

SENATOR Mr. C. A. MASCOLL: There must be severe tension in the affairs of Barbados. In the investment affairs there will be severe tension because when you have to make a decision about where to invest, they are not predicating on anything to do with race or anything pretending to go back to Africa. What going back to Africa what? Those things are insignificant in the affairs of man and Caribbean man now.

The important thing is that one has to be able to appreciate and read the investment climate so that you can make solid investments for growth and the sustainable development of Barbados, and it must be done above board.

I have hope. I have hope because you need quality men in good places and this is the first example that I have seen of it. It took years to come, but it is the first example of putting the quality people in the right position to do a good job. Therefore, I could close my eyes now and know that they would accomplish what they seek to accomplish because they are men and women of honour.

Mr. Deputy President, I understand the need for investment; I understand the need for enforcement; but I also understand that Barbados on its own cannot do it. Whatever we think of foreign investors, foreign investment is a must for future growth and development of Barbados and foreign does not have to be outside of CARICOM. It is time that we begin to respect or facilitate all those investors within CARICOM who are concerned about the wider region or who fully appreciate the need for us to come together as one.

I thank you, Mr. Deputy President.
12.35 p.m.

SENATOR THE HON. Dame PATRICIA SYMMONDS: Mr. Deputy President, one of the important aspects of this legislation is the creation of the legal framework for the establishment of the essential Securities Depository and it will now be able to immobilize the existing share certificate, and do away with papers gradually.

I know that Senator Mascoll has looked at the Securities Bill, 2001, from a regional point of view, but I wish to look at it locally and from the point of view of education, which I consider too, to be important. If one can rid Barbadians of the fear and get them knowledgeable about the mechanics of the CSD and the Stock Exchange. One of the purposes is that it will lower cost to the investors and transparency and efficiency to the market.

Barbadians in general have a high propensity for saving and the BLP has in the past and present, through farsightedness and excellent planning, tried to channel these savings in the right direction to the betterment of the economy and the society.

In the past, Barbadians have saved and continue to do so by joining meeting turns, putting their money in the bank and of course, in the old time days, they hid money under the bed. Regrettably, the idea of investment, I think is still alien to many. They work, spend their money, some wisely save some of it. At school, in my days, we learnt about stocks and shares and I did a business course. I even attempted to study economics when I was thinking of doing a degree locally and therefore, I am very interested in this area, because I think that it is important. In fact, stocks and shares were even taught in some elementary schools along with Arithmetic, because we know the high standard that elementary teachers – we call them primary school teachers – taught in those days and the things which children learnt.

For some time now, this has been no longer the case. At secondary stage, students no longer learn about stocks and shares, apart from in a business course. It is touched on in doing percentages and compound interest, but it is certainly not discussed in a trend where the ordinary person can participate in the buying and selling of stocks.

Mr. Deputy President, if we are to train students for the real world to become interested in investments, they must have a greater awareness of investment practices and the advantages. There is an excellent mathematics text book, which is very popular in school, Certificate of Mathematics, a revision course for the Caribbean by Grey and Layne. Some people here may be aware of it. There is a fine chapter on investment, simple but clear. But the topic has not been included in any examining body for a long time, neither Oxford, Cambridge nor CXC and I feel strongly that it should be taught in the schools. Yes, the curriculum is full and the teaching does tend to be examination driven, so that what is not tested is sometimes not taught and I think that CXC should write it into the syllabus.

The mathematics syllabus is revised approximately every five years. As a matter of fact, it has just been revised, but in the meantime, Barbados can take the initiative by tackling it locally through projects, general knowledge and current affairs, programmes on CBC and on radio and perhaps it can become part of the national certificate syllabus.

The National Development Curriculum Council on which I served some years ago when I was a Principal, and I understand it is still very active and dynamic, is now working on a new curriculum and perhaps they could look at that with the idea of including stocks and shares in the new syllabus.

Mr. Deputy President, this Act is opportune. It is being proposed at a time when the world is becoming more and more dependent on technology and the Minister of Finance,

in his wisdom, is ensuring that Barbados is not left behind, but is keeping abreast with the bigger markets. With those few words, I wish to say that I wholeheartedly support the Bill.

Thank you, Mr. Deputy President.

SENATOR Sir JOHN STANLEY GODDARD: Mr. Deputy President. I rise to support this Securities Bill, 2001, and the purpose of it is clearly outlined on the preamble on page 9, which is:

1. to establish a securities commission;
2. to make better provision for the regulation of the securities market and the capital market;
3. to make better provision for the protection of investors, and
4. to provide for related matters.

The functions of the Commission is also very clearly outlined in the section 4, page 26. I do not think that I need to review those. This sets out the purpose for which it is being established.

Here in Barbados we have a very unsophisticated capital market and it is probably because of our size that there are only 22 listed companies on the Securities Exchange. There are other public companies but they are not listed and there are quite a few large private companies which have chosen not to go public. I think this adds to the benefit if we had more listed companies. I do not know whether that can be encouraged by extensive legislation. I do not know the answer, but we need more than 22 if we want to become a nation of shareholders.

I am told that in the United States of America, there is in excess of 50 per cent of the adult population who have shares. In a democracy such as that, that is a good sign.

We should be aiming towards that objective, we may never reach 50 per cent, but at the present time, I would not even try to guess what the percentage would be. All I know is that it would be very small. But I imagine that there are some cultural barriers we will have to overcome before we reach that stage and they are significant and do not change overnight. Barbadians have been accustomed to investing in land, which was number one priority, or putting their savings into a bank account, or investing in a mini bus, or taxi, or ZR van, or fishing boats. These are all investments, but they are restrictive and therefore, in some way or other, we have to encourage people that in addition to that type of investment it is in their interest to invest in other securities which are

expected to earn dividend income and hopefully capital gain whenever they want to sell those shares.

I can understand the discouragement, because as I said earlier, our capital market is unsophisticated and our share prices do not reflect the reality. In a sophisticated market you can look for price earning ratio in various categories of investment, which means that the price of the shares as quoted, should be so many times: 9 times, 15 times, whatever it is; and experience determines this.

In Barbados, the price of the shares on the exchange market seem to reflect nothing. Every company reports improved earnings or higher dividends but still you can see the price of shares declining on our Securities Exchange. This you would not find in a sophisticated market. So it is going to take time but we have to keep working in that direction because any developing economy also needs a developing capital market.

It is through these markets that investments come about and investors and potential investors can participate in that capital market. So I think that there is a big educational job to be done to encourage Barbadians to become more active in the local capital market. This is also important in anticipation of a regional stock market. I know there have been discussions. I do not know of any decisions being reached, but it is inevitable that we, as a Member State of a single market economy must be gearing ourselves to participating in a regional capital market.

Like Senator Mascoll, I, too, commend the names of the persons who have been announced to serve on this Commission. I do not know whether that was a leak or speculation because this Commission, by Law, does not yet exist. If it did, we would not be debating this Bill here today, so I am surprised that all of those eminent persons' names can be announced that they will be serving on this Commission. I do not know whether the Press, as we see here today, found a document that fell off the back of a truck, or whether it is a scoop or a leak, but I think that the Press has to be more responsible, because there is another recent example.

12.55 p.m.

Only this week the Report of the Committee for National Reconciliation on which I had the honour to serve was tabled in Parliament. I think it was tabled in the Other Place yesterday and the Senate today, yet the print media has been commenting on this document long before it was laid and made a public document.

Sir, this may seem to be 'nitpicking' for want of a better phrase, but when you operate in a democracy, and we live in a democracy, we have to protect the rights inherent in that democracy and that includes the rights of Parliament. Therefore, while the names of the appointees to the Commission is interesting information, I question the

propriety and responsibility of the Press in making comments on those publicly before, in this case, it becomes a public document and in the case of the Commission before it was even established in law.

Having said that, Sir, I am very pleased to see this legislation coming before us and I certainly support it because no one can regulate themselves effectively and there needs to be this regulatory body in this Parliament.

I thank you, Sir.

SUSPENSION OF SITTING

SENATOR THE HON. P. C. GODDARD, Mr. President, I beg to move that this Sitting be suspended for one hour and we reconvene at 2.00 p.m. today.

The question that the Sitting be suspended until 2.00 p.m. was put to the Senate and agreed to, and Mr. DEPUTY PRESIDENT suspended the Sitting accordingly. 1.00 p.m.

RESUMPTION

Mr. DEPUTY PRESIDENT: This Sitting is now resumed.

SENATOR LeR. H. McCLEAN: Mr. Deputy President, I must say that I support this piece of legislation before us because I have long had an interest in what was happening with respect to the Securities Exchange of Barbados and I have long been puzzled as to the type of mechanisms for regulating the Securities Exchange in Barbados or the Barbados Stock Exchange.

Mention was made of the problems which could arise because of the interlocking directorship. Certainly, in our environment very often the value of shares on the Stock Exchange is not a true reflection of what is happening in the companies themselves and one needs to wonder then by what means these share prices are determined. Certainly, given our type of situation, one can easily influence the price of shares either upwards or downwards by simply manipulating the shares that are available.

Then again, Sir, the availability of shares on the Stock Exchange has always been a matter of concern to me because in our environment persons seem to buy shares or any kind of securities in a company, not for the purpose of speculation, but apparently for life and you will find as a result that there are very few shares that are made available once there is a share issue except for cases when lawyers are settling an estate.

I have found that in many cases persons were willing to purchase shares in companies and could not find anybody who was willing to sell shares. For example, we have utilities shares. It is almost impossible for anybody to buy shares in the Barbados Light and Power, the Barbados Telephone Company Limited or even Barbados Shipping and Trading Company Limited because you would not find any of them being available on the market because once people have purchased them, as I said, they seem to have purchased them for life.

The matter of education with regard to investment has also been raised. I think this is a very important point because many of us are unaware of the workings of a Stock Exchange in Barbados. I must admit that I personally knew very little of the workings of the junior market which is traded on the Stock Exchange. Very often, you will hear that so many shares were exchanged on the Stock Exchange but there was no activity on the junior market and I always wondered what was this junior market.

I think that there must be a greater attempt, in my view, to make not only potential investors but also those persons who are seeking to have their companies listed on the Stock Exchange more aware of the workings of the Stock Exchange and also the means by which they can get involved in trading on the Stock Exchange, but we can only do this if we heighten that sense of awareness in Barbados with respect to the investments.

I well recall, Sir, that when we spoke of the shares in the Insurance Corporation of Barbados and Barbados National Bank being made available I made the point then that you cannot compete with Barbadians Christmas shopping when you are offering shares. I do not think many people took the point that I was making then, but a subsequent occurrence has proven that to be right because none of those share issues were fully subscribed.

While I am on that, I must refer to the point made by Senator Sir John Stanley Goddard when he referred to the members of the Commission being named before this Bill was even debated here in the Senate. I think that the Press was probably wrongfully blamed in that regard in that it was the Right Honourable Prime Minister as far as I know who had made the announcement as to who were the members of the Commission. Certainly one knows that if the Prime Minister proposes that people be members of a Committee they are as good as selected as members of that Committee. This, Mr. Deputy President, is something which we need to pay careful attention to if we are going to maintain our democratic institutions.

Only recently, I saw where the World Bank and the World Trade Organisation produced a document looking at the factors which they considered to be good governance by

rating countries according to their governance and Barbados was highly rated on the grounds that we have got the oldest Parliament in this hemisphere and that we have traditionally followed the rule with respect to the principles of democracy. 2.05 p.m.

There must be concern when it seems as though we are not taking seriously these principles and we are bypassing Parliament by doing things like this because it also happened when Barbados National Bank's shares were offered. I recall that before the Bill to change the Barbados National Bank and Insurance Corporation of Barbados was discussed in the Senate, the Chairman of the Barbados National Bank was making comments about the issue of shares. It is not the first time it has happened and I would hope that persons would not continue to pursue this practice. These are the little things that destroy institutions which we have built up over a long period of time.

Mr. Deputy President, I am concerned about the manner in which Barbadians view investment and the Stock Exchange. We need to pay greater attention to educating not only the average Barbadian but even business persons who do not seem to understand the benefits that could be derived from the use of a Stock Exchange. We also need to pay careful attention to the whole matter of cross-border training because I am not quite sure if companies that trade on the Stock Exchange, that are not domiciled in Barbados, if they come under the jurisdiction of the Commission. I can only assume, given the fact that in order to be listed on the Stock Exchange that certain requirements under the Companies Act must be met, that through those mechanisms those companies would be brought under the control of the Commission. I have not seen anything in the legislation which seems directly to address this.

Mr. Deputy President, matters such as shares and investment will continue to play a pivotal role in the development of any economy. As Senator Mascoll said, we have to compliment Government on the move to bring this under the control of the Commission because one cannot be absolutely sure that to date everything has been above board with respect to the regulation of the Securities Exchange. There have been questions raised about the shares of one banking institution and questions were raised about whether it was done appropriately.

I remember the Prime Minister making the point that Government had a representative on the Board but did not control the Board and, therefore, Government could do nothing about the situation that arose at that time. I am sure that with the Commission in place now that matters such as that could be adequately addressed. In fact, I am sure that rules are now in place to ensure that matters of this nature will be dealt with in the correct way.

Mr. Deputy President, in Barbados we can never be sure that market forces determine what happens. Very often it is felt that in Barbados an item is sold not for what it is worth but for what you can get for it. If market forces are to be applied and we have a situation of a globalised economy and open market it is difficult to understand all of the furor of the possibility of foreign companies such as K-mart coming to Barbados because conditions are in place for them to come in. Interestingly enough, the whole climate is such that it gives rise to this question. Why should a company that is part of bringing another foreign entity to Barbados be opposing another foreign entity coming in? I am speaking of BS&T who are in partnership with PriceSmart coming to Barbados but yet are opposing K-mart coming here. It is a strange kind of behaviour. It is one which continues to perpetuate the syndrome that certain people must maintain monopolies in Barbados. We have a situation where a single foreign enterprise like Courts could have six or seven outlets in Barbados but yet is opposing another institution coming to Barbados. BS&T owns JB's Supermarket, Super Centre, Big B, M.E.R. Bourne, Knights and a whole set of other businesses and yet are very concerned about another company coming in that can carry away the market. 2.15 p.m.

This neo-liberalisation, which we are now experiencing, seems to be determining that the laws would now be based on the survival of the fittest. If the role of governments were to be diminished to one of merely providing security and facilitating the functioning of the operations of the private sector, then one must wonder what would happen to those who are not able to survive in this more competitive environment.

I must admit that I am one of those persons who believe that there must be significant participation by Government if those who cannot defend themselves or those who cannot survive in this competitive environment are to survive, then they must be a significant role for Government.

I am not accepting this thesis that Government should not be involved in commercial enterprises. When we look at the Insurance Corporation of Barbados and the Barbados National Bank, these are entities that were started by Government. Now that they have become profitable institutions, people are saying that Government should not have them but that they should be in the hands of the private sector, the same private sector which did not see it fit to provide some of the facilities which these institutions had to set up. The Government had to set them up because there were certain things that the private sector was not prepared to do for the average people, so the Government had to set up certain institutions. Now that those institutions have become successful, we are hearing that they should be out of the hands of Government and back in the hands of the private sector.

Unfortunately, those of us who have been involved in Government have been convinced by the same people in the private sector, who people believe are the great gurus all knowing and all powerful, that they are the only people who can give proper advice and, therefore, you must hand over everything to this thing called the private sector in order for it to be a success.

Recent developments at Balls is one indication that the private sector is not as great as one believes that it is. We also recall that ordinary Barbadians were being encouraged to invest in the agriculture processing facility at the Agriculture Development Corporation. Again, this was headed by one of the great moguls in the private sector. All those persons have lost their investment and to this day they cannot hear a word as to what has been the outcome of their investment. I have heard recently of the equipment being put up for sale but the average persons who have put their money into that investment, have been left holding the bag and not a word from those persons who are supposed to be these great managers and organisers.

We must not believe that the private sector is the great saviour for the people of this country or people anywhere. If we continue to diminish Government, then poor people will be constantly at a disadvantage because they will be merely seen as tools to be used by businesses and not necessarily as people who should have a proper share in the distribution of the economic pie.

I must confess that I have always supported socialist principles in respect to the governance of any country and whether or not people think that is now something equivalent to the dinosaurs, I will continue to hold those views because I believe that people need to have some means of protection and people who are unable to look after themselves must have somebody to be able to look after them.

I remember the late Parliamentarian, Mr. Smith from St. Joseph, used to say that his politics were guided by two kinds of people, little children and old people. His argument was that the rest could take care of themselves. When we examine that approach, what he was saying was that those people who could not take care of themselves, are the people that needed taking care of.

In this new environment, it is becoming clear to me that the fittest will survive and those who are not in that category will fall by the wayside. I do not believe that is the kind of environment that we want to encourage, even though we seem to be locked into a particular type of system now, where we are signatories to all of these agreements and arrangements, most recently the FTA. In my view, Mr. Deputy President, now that Barbados is a signatory to that arrangement, if CARICOM is going to function the way it

functioned throughout the years with emphasis merely on trade, then the people in CARICOM should pack their bags and go back home. The FTA, with respect to trade, has made CARICOM irrelevant now.

Unless CARICOM can start to address other issues which affect the livelihood of people in the Caribbean and move towards creating a Caribbean society, then CARICOM is totally useless when it comes to free trade. As it was pointed out before, the WTO Rules are now the FTAA Rules.

2.25 p.m.

Mr. Deputy President, those persons who have been in control of commercial activities in Barbados throughout the years must recognise that they are operating in a new environment. They must recognise that they are open to competition from all parts of the world now, and at the same time, the Government must recognise that with this exposure to more competition there will be more casualties along the way.

Our manufacturers are at a distinct disadvantage. In fact, at a further disadvantage because the first disadvantage that our manufacturers faced was with respect to our distributors in Barbados. It is difficult to understand, Mr. Deputy President, why distributors in Barbados should be complaining about another distributor coming in and are trying to rope in manufacturers and the average Barbadian to support them in their fight, when they themselves cause more harm and greater problems for the manufacturers in Barbados than anybody else. The first thing that distributors in Barbados say to the manufacturers is that your price is too high and therefore we have to go outside of Barbados and buy. So if they are going to buy from where they can get the best price, why should they be telling the consumers of Barbados now that they should not buy where they can get the best price?

I have made the statement before, Mr. Deputy President, that...

Mr. DEPUTY PRESIDENT: We are dealing with the establishment of a Securities Commission but you seem to be roaming all over the place. I waited patiently, hoping you will get back the centre. Would you please come back there now?

SENATOR LeR. H. McCLEAN: Mr. Deputy President, the Commission is going to be established to deal with securities and the businesses in Barbados are the ones which would have instruments to be traded by the Securities Exchange. Therefore, I am saying that since they are going to be asking people to invest their money in their companies, then obviously, they must have a responsibility to the people

who they ask to invest in their companies. Also, we must have that degree of confidence in these businesses to know that they will be acting in the best interest of all Barbadians.

I am saying, Mr. Deputy President, that this has not been the case. We cannot be too ready to give *carte blanche* support to companies which we are not sure have acted in our interest over the years. So there is a clear link between the offering of shares on the Securities Exchange and the confidence that people have in companies, because very often, as you know, Mr. Deputy President, a single word from the right quarters will determine what happens in the market.

Mr. DEPUTY PRESIDENT: But are we dealing with the issue of shares and confidence at this time, or are we dealing with the securities and the control of shares? I do not think you fully understand me but we are dealing with the establishment of a securities commission. I have allowed you to roam a while but you cannot continue down that line.

SENATOR LeR. H. McCLEAN: Mr. Deputy President, I do not know why you cannot see the link between the confidence of the consumer, and the confidence of the people in the business sector. The mere fact that there is need for a commission tells you, Sir, that there is concern about the manner in which the Securities Exchange is managed or controlled.

Therefore, if the Government has concerns and the Government has put an instrument in place to deal with those concerns, then the consumer and me, being a consumer, must have a means also of expressing concern about the operations of the same business houses. Therefore, I can sympathise with you, Sir, on your difficulties.

Mr. DEPUTY PRESIDENT: I have no difficulties whatsoever, and I do not need any sympathies. We are going to get back to the establishment of a securities commission.

SENATOR LeR. H. McCLEAN: Mr. Deputy President, the Commission is established to ensure that the functioning of the Securities Exchange of this country falls within certain bounds and parameters. I fully support that effort and I hope, Sir, that this is the beginning of a new environment and a new climate in this country when all persons concerned will pay interest, not only in terms of the instruments which are traded on the Securities Exchange but in the overall operation of businesses in this country, in terms of the interlocking directorships, in terms of the potential for insider trading – and it is addressed here – and in terms of the strangulation that is put on small businesses as well as consumers because of the virtual monopolies that exist in this country in many sectors.

Also, Sir, that greater attention must be paid to the fact that market forces have not been allowed to operate in our economy. And, very often people are at the mercy of a small set of people who manipulate prices, not only prices of shares but prices of commodities and they have been doing this to the detriment of small business people and the consumers of this country.

I thank you, Sir.

SENATOR Mrs. V. E. NEWTON: Mr. Deputy President, you will have a much easier time with me, I assure you.

I rise to support this Bill wholeheartedly because I think that given the global climate and our attempts to encourage registration of foreign companies on the Barbados Stock Exchange, that there was need for a new regulatory framework.

Sir, before I go any further on that matter, I just want to compliment the persons who both provided the policy information that went into the Bill and the drafters of the Bill. It is a very cleverly and well drafted piece of legislation. It is divided into sections and each section is fairly discrete in that the clauses that need to be interpreted to read that section properly are included there. It otherwise contains most of the provisions that one would look for in a Commission set up to regulate stock exchanges in a country.

As rule making powers, it provides for administration by the Commission persons of outstanding ability and independence in decision-making. It provides regulation of the Stock Exchange, outlaws undesirable stock market practices, such as non-disclosure of information which would assist or prevent an intended subscriber or purchaser from using the Stock Exchange, regulates investment companies and requires disclosure of substantial shareholding. In other words, it is an excellent piece of legislation and I think it ought very well, as providing a regulatory framework, to fulfill the purposes for which it was established.

Of course, with this and with any other type of legislation, it all depends on how the persons who are set up to ensure that it works, operate, whether they are independent of mind, whether they deal impartially and whether they ensure that transparency of their operations are all assured.

I would say that it is an excellent piece of legislation and several speakers before me spoke of the small size of our shareholder market, so to speak, in Barbados which I am told even with Insurance Corporation of Barbados (ICB) and Barbados National Bank (BNB) offering shares recently, probably does not exceed about five thousand.

Sir, activities on our stock market may be sluggish or one could just say that it is a small market, which it is. But, in any event, there was need to have a new regulatory framework, especially since the 1987 legislation that preceded this one provided that the Minister reserve powers vested in him, the Minister, to develop the securities market or do anything that the Exchange failed to do. In a situation where we are hoping to attract listings on our Stock Exchange from outside Barbados, this was clearly not a desirable situation and would have given no comfort to foreign investors. This piece of legislation therefore seeks to ensure that the Commission has all the powers that it needs to do its job properly and we can only hope that happens.

My only concern was that there was no provision in the legislation dealing with a code for takeovers and I have been assured that is going to come when the Companies Act is next amended. I have been informed that since 1989, there was a code of conduct for takeovers which has been subscribed to by local business persons using the Stock Exchange but it had never been enacted in any legislation. Sir, while it is being observed, it would be desirable to make sure that it is put into law, and I gather that is coming when the Companies Act is amended.

Mr. Deputy President, with those few words, I support the Bill.

SENATOR Mrs. P. E. RICKINSON: I rise to support this legislation and join with others in congratulating the framers of the legislation and those persons who put it together. However, there are a few queries that I would like to make.

The first query I would like to make is on the Securities Commission, section 4(a) where it says that the Schedule has effect with respect to the Constitution of the Commission otherwise in relation thereof. The functions of the Commission are to advise the Minister on all matters relating to the Commission and Securities market. I was wondering whether "capital market" should be included in the "securities market" there.

Another query that I would like to make is that the legislation talks about protection from insider trading but I did not see the mechanism. Maybe it is here, but I could not identify the mechanisms and the tools to identify and deal with insider trading which will go to the heart and integrity of the legislation.

I would say that in one breath, and in the other breath, I do recognise that our market is small and we have very few companies trading on the Stock Exchange and maybe, one has to make some form of adjustment until the Stock Exchange has grown.

Another query that I would like to ask is on Section 5(c) where the legislation speaks about market participants but in section 46, Part IV, it talks about registration of market actors. I was wondering if there is a difference between the participants and market actors, and by the same token, on section 5(e) when they speak in terms of brokers and dealers, if "market actors", which is a broader term, would not have been more appropriate in that area.

I now turn to section 28 (1) where it says that the Central Securities Depository Inc. is deemed to be duly registered under this Act as a self-regulatory organisation. The Central Securities Depository shall, perform the function of the settlement of securities and transactions. What I would like to ask here, is what about the confirmation of securities transactions. It is my view that the details of any transactions should be sent directly to the client promptly which will go to the heart of accountability.

There is a query on Section 28(1) where it says that the Central Securities Depository Inc. shall collect and distribute dividends, interest and redemption monies on securities holdings, on behalf of, and for the accounts of the members. What I want to ask about this, is this an action for the company or for the Securities Depository Inc.

In regard to the self-regulatory organisations on section 5, that is very ambiguous. I could not understand what it means. I do not know if everybody else understood that. I think maybe they need to revisit it. Again, on section 5(b) and (c) maybe marking it "actors" instead of "participants" would have widened the scope of that part of the legislation.

Regarding section 49, Senator Mascoll did talk about section 49(g) and (i) where it talks about every participant for registration as a dealer, should have been awarded a degree or professional qualification in economics, banking, law, accountancy, business administration, or chartered secretaryship from a university or other educational institution recognised by the Commission. It is my view that the Securities Exchange should move very swiftly to start introducing an examination so that people can take an examination to be qualified as a dealer, as is done in other places.

In Section 52, we do get the same thing and we need to revisit that and think seriously of having some form of examination.

On Section 51, Senator Mascoll spoke about this as well and Section 52(7) Subject to Section 8, the following persons may act as investment advisers without registration under the Act:

- (a) an insurance company registered under the Insurance Act;
- (b) a licensee under the Financial Institutions Act;
- (c) an attorney-at-law or an accountant;
- (d) a registered broker;
- (e) a registered dealer;
- (f) a publisher of, or a writer...

Yet, as Senator Mascoll said, an economist, who really has the tools in this area, has been left out and I think they need to revisit it and examine this a bit more carefully. Because I do not see how a publisher, a writer, a bonafide newspaper, a news magazine, a business or a financial publication, that is distributed only to subscribers to it, for value of the purchase of it... I think they need to look at that again and when they do, they need to look at Section 53(e) as well.

Senator Mascoll did touch on Part V, Registration of Issues and Securities and he did mention about the Government. We know that they do issue bonds, debentures, *et cetera*, but not other securities. What concerns me it says in 58 (8):

"In subsection (7), "government entity" means, the Government of Barbados, the Central Bank of Barbados and any other statutory board."

Asides.

SENATOR Mrs. P. E. RICKINSON: On Part VI of the Bill where it deals with distribution and it talks about "a sophisticated purchaser", I wonder if it should be "a sophisticated investor" in that the person who puts up the money to buy the securities and not the person who does the purchasing of the securities.

I would like them to revisit as well section 69 (2) where they talk again about purchaser, who is a sophisticated purchaser and not a sophisticated investor. They are not talking about the investor there at all.
2.45 p.m.

In Part VII where the heading talks about Market Conduct and Regulation, I wonder if they should not be talking about the market actors which were already defined hitherto.

At Section 82 it talks about:

"A securities company or a broker who is not acting in the employment of a securities company shall establish and keep in a financial institution in Barbados one or more trust accounts designated as such into which it shall pay..."

I was wondering if anybody who handles money should not be covered by the trust account and not only those persons mentioned there to broaden that clause.

In Section 116 it says:

"Subject to section 119, a person who is or at any time in the previous 6 months has been knowingly connected with an insurer shall not buy or sell or participate in any transaction on any securities exchange or other self-regulatory organisation relating to securities of that insurer if he has information which ..."

I would like to know if this includes people like your spouses, step-children or children.

In general, apart from those queries that I would like some answers to or would like revisited I fully support the Bill and I sincerely hope that in particular we would move swiftly to have some form of an examination because we are talking about a lawyer and an accountant but we could obviously put nurses in there as well as others, because a lot of these people's education does not train them to be brokers. What they really need is to have people, who do not have some of the positions mentioned who can trade on the stock exchange. So the best thing to do is to have some form of an arrangement where there is some form of an examination that they can take so that nurses can also trade on the Stock Exchange if they have the aptitude to do it.

I thank you.

SENATOR THE HON. G. S. H. MURRAY: Mr. Deputy President, I have a few comments to make on this measure and I shall begin by, first of all, commending Government for keeping another one of its Manifesto pledges. This pledge to introduce new securities legislation and an independent Securities Commission to promote the development and regulation of the capital market in Barbados is listed on page 37 of our 1999 Manifesto and I am very pleased to associate myself with this proposal coming to fruition and being realized in actuality.

Sir, there is no doubt that with the coming of the Commission there will be an ushering of a brand and perhaps brave and new exciting role in the economy of Barbados helping it to become more sophisticated. As has been said earlier, right now the capital market is rather rudimentary and

basic and this one will add more sophistication to the market by introducing these other instruments for investment, namely the buying of shares and things of that nature.

In fact, this is all part when you obtain it with a number of other measures which have been introduced over the year and other institutions that have been set up, this really is part of the framework for the creation of that state of economic enfranchisement that is the desire of this Government to make available to all Barbadians.

Seeing I am in the mood for commending, I would also like to commend Senator Mascoll for his very fair, very balanced, very level and very mature speech. He sounded almost statesmanlike in that measure. I am sorry he is not here to hear it because I do not get the chance to say this very often about him and I wish that he were here to hear it for himself.

Asides.

SENATOR THE HON. G. S. H. MURRAY: Apart from that Sir, I suspect that when this whole issue settles down and when the institutions and the associated agencies come into being that this will provide another opportunity to encourage the traditional Barbadian habit of thrift – it might not be in investment – in putting aside something for a rainy day to develop the future. In doing so, there has often been a great deal of comment and Barbadians have often been chided in the past for being willing to spend more on consumer durables than on saving. There is always a quarrel about the level of savings in this country and I think this is the beginning of the journey to that ideal situation where a significant proportion of a person's income could be invested in this measure.

What really intrigues me about the coming into being of the Commission would be the fact that its work would mean that there is going to be the development of new jobs, new career opportunities for persons and the creation of new skills in an area hitherto not broken into by other persons. One can see the advent eventually of broker houses and things of that nature.

So one can very well envisage that very soon the jargon of the market would become commonplace on the Barbadian tongue. The same way that people are talking about trade liberalisation, globalisation, inflation and all things of that nature, I am sure that eventually this will become part of the parlance of the ordinary Barbadian. When the ordinary Barbadian can begin to converse using the jargon and understanding the concept that dictates and prevails in this area of activity there is no doubt that we will then begin to see that this is really becoming a part of the life of the Barbadian in the same way he can probably talk about cricket

or politics or religion or whatever. That really would be the true measure where it is no longer the activity of the elite but that people see it as part of their lives.

There will also be spinoffs apart from these new jobs and career opportunities. Obviously, Barbadians will have also to brace themselves not only for some persons becoming millionaires perhaps out of these activities at some future time or people losing their shirt, as they say when people fail, by becoming bankrupt; but we will have to be prepared to deal with another phenomenon in the area of crime. There will no doubt be a new version of crime. People will always be wanting to beat the system and one can see, therefore, that in all the stuff that one would have read about perhaps in that famous book "The Den of Thieves" – would become an unfortunate part of the realization of the Barbadian person.

Therefore, I am sure that the police and others at this stage who may have some knowledge of these things would have to be fully trained. There would be a whole lot of support services that would have to be created and generated in order to supplement and cope with this market. So even for tackling this crime you are going to be creating new jobs and new opportunities. Persons will obviously have to go abroad to study new forensic skill to be able to cope with the activities that those persons who do beat the system will create.
2.55 p.m.

Based on my personal experience, I have encouraged my daughter, who is thirteen, to watch CNNFN and BBC. She brought it to my attention that there are assimilated Stock Exchanges on the Internet where she and her friends buy and sell stocks. As a matter of fact, when Barbados National Bank was putting shares on the market, my daughter knew I had an interest in them and she enquired from me whether they were good shares to purchase.

Sir, this Bill will help to change the Barbadian perspective on how they view the world and the opportunities in the world. I am glad that things that I would have listened to as news from abroad is well on the way to becoming part of the everyday experience of myself and other Barbadians. This should help Barbados to be a more fully developed society and will allow people to invest their savings and earnings. Sir, in this business you have to take risks but that is the very nature of this business.

Therefore, I want to give full support to this measure and wish everyone who participates every success.

SENATOR T. E. BARKER: Mr. Deputy President, I rise to support this Bill in all its implications and for its intentions. I see this as yet another attempt by this Administration which, as you know, is very creative and

proactive in bringing order, to ensure that there is a range of diverse opportunities for Barbadians to invest in and also ensuring that the Barbadian investor has some measure of security.

Sir, I am proud to be a member of the Barbados Labour Party and will always be a member of that Party. In 1982, this Barbados Labour Party brought into being the first Securities Exchange Bill although it took five years before the Securities Exchange was set up and they started trading in 1987. This Barbados Labour Party understands the reason for these things to make sure that the Barbadian public is given the opportunity to invest in Barbadian businesses because we believe that the concentration of ownership and wealth in too small a sector of the society does not augur well for democracy. You cannot have political democracy unless there is some measure of economic democracy. Our Party has always seen the nexus between liberalising the economic system and liberalising the political system because we know the impact that one can have on the other. Therefore, we sought in 1982 to put in place mechanisms where companies can be encouraged to go public, that is, to widen the scope of their ownership structure and to encourage local Barbadians who, by themselves, would not have the money to start a company but would take their money and own a stake in a larger company.

Sir, the public of Barbados will always have the opportunity to invest in Government securities, things like Mutual Funds and retirement savings plans, and this Government is making sure that there are fiscal incentives for so doing because this is in keeping with our view of democracy.

There is another reason why we want to introduce share ownership because too many of our companies see the acquisition of loans as the only way for them to expand.

There is too much emphasis, in my view, on loan finance as opposed to equity financing, primarily because there is a mistaken view that by expanding your ownership base you lose control. A lot of companies in Barbados have gone under for this very reason. They are saddled with a large loan portfolio which they do not only have to pay back but they have to service. They have to pay loan interest every month in addition to paying back the principal. This has caused a lot of businesses to undergo severe strain and stress and, as a result, a lot of failures have taken place because there is this mentality that the person must be in total control. When a company has equity finance, it does not have to be every year paying back the principal. Even if the economy goes bad for a year, the investor knows that he cannot look for dividends because the company is not in a position to pay dividends because of the loss. We know when we invest that there may come a time when the company in which we invest might not be able to pay dividends for that year.

Sir, that brings us to another important point. We have to be careful how we are investing because if I have some money and I need that money to use at Christmas time, then I should not be on the Stock Exchange. An important point must be made, Mr. Deputy President. When I put my money in a savings account, every year I might get three or four per cent. The real value of my money declines over time. If I deposit \$1 000, I may get interest on it but it is still a \$1 000 in 20 years time. What that \$1 000 can buy would be nowhere what it could have bought when I first made my investment.

3.05 p.m.

The thing about shares is that we expect that value of the company should appreciate over time. When I invest my money in the company, I expect that the value of those shares would have appreciated over time, so that when I allow for inflation and so, I would have realised a positive gain from my investment. Sir John Stanley – I hope that I am not misquoting him – made the point that there are cases where the companies are doing well but the value of shares have declined. I do not see how that could happen.

If the company is doing well, one should constantly expect that the value of the shares should appreciate over time. If the value of the share does not appreciate, then the real value of your investment would have declined. The nominal value might remain where it is but the real value could decline. I do not understand the reasoning. If a company is doing well, the value of the shares should reflect that.

Asides.

SENATOR T. E. BARKER: Sir, that is something that we have to worry about. We want this country to have confidence in the Stock Exchange so that when they put their money, as we would like them to do, they are confident that only the best practices are undertaken by that company. When a company asks the public to invest in that organisation, it has the responsibility to the people who invest in that company that the best practices are applied so that the investment is relatively safe.

In Barbados we only expect the Government of this country to practice high standards. In other words, if the Government did not tender for a job, we make a noise. If the Government does not follow the best tradition of practices, we also make a noise. Are we as vigilant as we should be when a company in which we invest does not follow the best practices? In other words, when a company puts up a building for \$20 million, when they could have gone to a tender and got the same building for \$19 million, hence that \$1 million could have been shared among the investors, reflected in dividends, we do not make a noise.

I believe that if a company goes public, its decisions, in the same way that Government is scrutinised, should be scrutinised by the shareholders. Their action must come under scrutiny. A decision taken by the management would affect what dividends the shareholder receives and also the value of the shares in time to come. The decision of a firm to go public, in my view, brings about with it the responsibility for that company to act in the best tradition, and best practices must always be the order of the day.

We in Barbados, are now trying, because we are only 13 or 14 years old in terms of formal trading on the Stock Exchange, to ensure that the confidence of the public is high. When someone goes into the bank, he deposits his money with confidence because he is 99.9 per cent sure that when he returns he will get his money back. He must be able to do so with the purchase of shares on the Stock Exchange.

This piece of legislation is very important because when we read it, we would see that Government was concerned about these very points, that the interest of the investor must be secured at all times. The Commission that is chosen must be chosen so that the whole of Barbados and whoever invests will know that they have a set of people overseeing the action whose public credibility is beyond question and they know that these men and women that the Government has chosen will act on their behalf with fairness.

Asides.

SENATOR T. E. BARKER: We have heard so many stories where innocent people have lost their whole livelihood because of sharp dealings. From looking at the composition of the Commission, the people of Barbados know that Government is serious about this issue. The investor must be protected. Otherwise, the whole exercise will fail.

Sir, this brings us to the question of companies going public. Some of the biggest companies in Barbados are still private companies. The question that has to be asked is, is it a good thing to have these large companies operating in this manner. What are the reasons why these companies are afraid or unwilling to go public? Are they afraid of public scrutiny or are they afraid of opening the company to "outsiders"? Do not forget that these same "outsiders" are the ones who, because of their purchases, whether they are goods or services, have made the companies what they are today. The companies could not have achieved what they have unless the public supported them.

I believe that we have to look at the relationship. I would like to believe that in the 21st century, the level of our relationship is such that no company in Barbados should be afraid to go public. I think that we have to use more moral suasion and if that does not work, we will have to look at

other methods to encourage some more of these companies to go public so that the whole population can share in the development of those companies.

Mr. Deputy President, I am of the view that whether or not the company is public or private, the company, in addition to the entrepreneurs, was built off the backs of the people, and as such I see nothing wrong in the people having a share in the ownership.

I believe that with all the mechanisms that are contained in this legislation to protect the investor and the company, no company in Barbados should be afraid to go public. I think that it should be a natural progression to widen their ownership.

Sir, while I am on this point, very often companies that have gone public still reserve too many of their shares for private transactions. I believe that there is a strong case where some of the public companies increase the proportion of the shares that are available for purchase. They want to go public and say, yes I am listed on the Stock Exchange. That is one step. The next step is to ensure that enough of your shares are tradeable so that going public is not only lip service but rather it is a reality.

There is also another end to this. When shares are available, you get a better idea of the value of the company and the forces of demand and supply come into play.

The question, which I raised earlier, about the share value is not a result of the quasi-private nature of the whole transaction. Sir, this is something that we have to be constantly looking at. We want companies to be listed but we have to make sure that there is a lot of activity in the buying and selling of the shares.

I remember a few years ago when the Government had shares in BARTEL and the Government wanted money. I am sure that many of us in here would have found \$500 or \$1 000 to purchase the shares. The Government went and did a private placement, they confessed that they had run the country so badly that they needed the foreign exchange. They virtually gave away the shares. A lot of Barbadians at home and abroad would have been glad to have bought some of the very valuable BARTEL and BET shares.

Asides.

Sir, the DLP Government sold the shares back to the owner.

Asides.

SENATOR T. E. BARKER: Sir, all the actors have to treat the market with the respect that it so deserves.

This Bill has a lot to be commended. It is a good Bill and it is the result of the Government taking the best advice and getting views on the various markets and coming up with a sensible Bill, a Bill which ensures that the public is protected. It also makes stipulations that companies to whom we go for advice are staffed by competent people. Nobody can walk off the street and say that he is a financial analyst and give the public advice on a matter that he knows little about.

We are sure that people of quality are in a position to give advice to the public and that the public is protected by having a contingency fund in place. People who are actors have to contribute to this fund in case they abuse the trust that the public placed in them. I was told that in Trinidad there is a fine of about \$5 000 000 but they said that you cannot claim more than \$25 000 per investor so that people will not use that to fleece the public.

The idea of a contingency plan is very important and it offers good protection for the investor. This Bill offers a lot to the investor and the company. When the takeover code is put into place, things will fall into place. The object is to build an environment where the trading of these securities can be done to the benefit of the company and the investor.

Sir, this Bill is timely and will go a long way to ensuring that we get a stock market in Barbados which is dynamic and one in which we all can put our trust. I would not want to sit unless I talk about my favourite profession, the economics profession. To some extent I concur with the views of Senator Mascoll in this regard about the economic profession. As a founder member of the Barbados Economic Society, I know that at times we are our worse enemy and we need to look at ourselves in a more favourable light if we expect the public to look at us in a favourable light. Too many of our economists, from what they say and what they write, forget their economic training in the pursuit of other professions.

Asides.

SENATOR T. E. BARKER: If you want to be treated with respect, then I think that we have to treat ourselves with respect and make sure that when we make any utterance, just as a doctor or lawyer would not make a public statement unless it follows the best tradition of the profession, we have to make sure that we follow the same dictate.

It is very important that the profession of economics understands its worth. Despite what people say, economics is a profession and it is one of the noblest professions, if I may say so, even a bit more noble than that of a lawyer.

Asides.

SENATOR T. E. BARKER: Sir, if as Senator Mascoll said that they were not mentioned, the fact that the economists were not mentioned is not a big thing, but we have to look at ourselves in a better light in the economic profession.

3.25 p.m.

Sir, I do not think the fact that they are not mentioned is such a big thing but the point is, we have to look at ourselves better in that profession.

Sir, with those few words, I want to commend this Bill to this Honourable Chamber, knowing that we have to continue an educational process so that the ordinary man out there would be made to know that there are provisions in law which will enable him to turn out his business with safety and with the assurance that there are people there who are looking after his interest.

I thank you.

SENATOR THE HON. P. C. GODDARD: Mr. Deputy President, we have certainly had a long and exhaustive dissertation on this Bill. There is no doubt in my mind that this Bill will go a long way to improve the transparency and accountability of the investment climate in Barbados.

Sir, to answer Senator McClean's question regarding the registration of cross listing companies – cross listing companies, not domiciled in Barbados, will be regulated by the Commission of the country of domicile as well as the local registration.

Jamaica, Trinidad and the Bahamas already have established Commissions and currently cross listings are only approved after confirmation of good standing by the Commission of the country of domicile. The local registration of companies is confirmation that the registration is in order and that the filings are up to date.

Sir, that means that cross listed companies will be regulated by the Securities Laws by the country of domicile as well as the local regulation, that is, the Securities Act and the Companies Act and the Takeover Code as well. I would confirm that Senator Newton's comments about the Takeover Code will be coming in amendments to the Companies Act, as she stated.

I would also make some comment about the nature of investments and the fact that the comment being made, is that there seems to be no shares for sale. I would also say that there is very little land for sale at \$0.50 but there is a tremendous amount of land for sale at \$10 or \$20 per square foot.

So if you want to buy something, pitch the price at something that would attract the sale. This is the nature of trading. Trading is not a fixed price or a theoretical thing. Purchasing securities are formulated on a vast array of information. It is not just the dividend. It is not just what the company is doing but it is the future of the company. It is the management of the company. It is the potential for that company to survive over the long term. There are many different facets and if you want to buy the shares in a company that you figure will appreciate, then it is up to you to make the offer that would generate the sale.

So that, Mr. President, is it in a nutshell. I would also say that we can learn a lot from the trading activities that we have observed in the international marketplace. As Senator Barker quite rightly stated, part of the investment is the expectation of the appreciation of the value of shares. In other words, capital gains, as well as a reasonable level of dividends. However, one can get trapped into the short-term mentality of just looking at a return within a week which is a dangerous way of investment from my perspective.

I do think that there needs to be a tremendous amount of public education, not just by the Government and the Securities Exchange Commission but also by public companies. Public companies need to be more transparent and more aggressive in marketing themselves to the marketplace.

I believe that we have freedom of action in this society. While I do believe that there should be more public companies, I think that it is good for the economy and good for the society to have a wide range of opportunities for investment. I also believe strongly in the right of an individual to determine his or her own course of action. Therefore, I do not believe in coercion of any sort or any kind. I believe in the freedom of the marketplace so, Mr. Deputy President, I think that would be my position on that particular matter.

I would also mention Senator Rickinson's comments about the need for examinations. The Ministry of Finance already has arrangements in place with the Barbados Community College for a Securities Market Associate Degree, as well as international accreditations which will be recognised, such as the Ontario Securities Institute, the London Institute and Licencing Process, which would be observed. This would be open for any profession or any individual to avail themselves of these particular skills to offer themselves as participants in the marketplace as market actors.

With that, Mr. Deputy President, I beg to move that this Bill be now read a second time.

The question was put to the Senate and agreed to.

On the motion of SENATOR THE HON. P. C. GODDARD, the SENATE resolved itself into Committee on the Bill, SENATOR THE HON. Dame PATRICIA SYMONDS in the Chair.

COMMITTEE

MADAM CHAIRMAN: This Senate is now in Committee.

Clauses 1, 2, Parts IV, Clauses 3 to 60 inclusive were called and passed.
3.35 p.m.

Parts VI to XII, Clauses 61 – 144 inclusive, were called and passed.

SENATOR THE HON. P. C. GODDARD: I beg to move that the Schedule be the Schedule to the Bill.

The question was put to the Senate and agreed to.

On the motion of SENATOR THE HON. P. C. GODDARD, MADAM CHAIRMAN reported to His Honour, the DEPUTY PRESIDENT, the passing of one Bill in Committee and Mr. DEPUTY PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of SENATOR THE HON. P. C. GODDARD, the Bill was read a third time and passed and cited as The Securities Act, 2001.

ORDER NO. 3 – THE POLICE COMPLAINTS AUTHORITY BILL, 2001

SENATOR THE HON. P. C. GODDARD: Mr. Deputy President, in moving the Second Reading of this Bill, this Bill would provide for the establishment of a Police Complaints Authority and for matters incidental thereto.

The establishment of this Authority is something that has been in the Barbados Labour Party Manifesto and the Attorney General has, after long periods of consultation and work with many people both in the civil society and within the Police Force, developed this piece of legislation to establish a Complaints Authority so that there would be a known and set procedure for members of the community to register complaints against policing activity in Barbados where they feel that the Authority had been abused.

The Bill basically reflects the models of both the Trinidadian and the Jamaican legislation which have been previously introduced in those countries. It provides in Clause 5;

"The functions of the Authority are to:

1. monitor the investigation by the Police Force of any complaint with a view to ensuring that the investigation is conducted impartially;
2. supervise the investigation of complaints or other matters in accordance with section 7;
3. undertake the direct investigation of complaints where it thinks necessary; and
4. review complaints in accordance with sections 21 to 24."

Clauses 21 to 24 make provision for the conduct of reviews and hearings by the Authority. A person who is dissatisfied with the handling of his complaints or the findings of an investigation by the Police Force may seek a review of the complaint by writing to the Authority within three months of notification by the Force. The Authority would notify the Commissioner in writing if it is satisfied with the manner in which the complaint was disposed or with the findings of the investigations. If it is not satisfied, it may institute a hearing to inquire into the complaint or notify the Commissioner of its findings and recommendations in respect of the disposition of the complaint.

The Commissioner would then submit a report to the Authority and the Governor-General setting out his reasons and comments if he does not implement the recommendations of the Authority.

In clause 7, provision is made for the Authority to supervise investigations relating to any alleging complaint if an officer's conduct resulted in the death of or serious injury to some other person and any other matters referred to by the Commissioner.

The Authority, the investigative staff of the Authority and any other person authorized by the Authority will enjoy the same powers and privileges as are given by law to police officers in the exercise of their duties.
3.45 p.m.

Where a direct investigation is concerned, the Complaints Office may be requested to supply information or allow members of the authority or an investigator appointed by the Authority access to any premises of the Complaints Office. On completion of a direct investigation the Authority must submit a report to the Commissioner and where a criminal offence has been committed, to the Director of Public Prosecutions.

Clause 10 of the Bill calls for the establishment and maintenance of a Complaints Office by the Commissioners

to investigate complaints made by members of the public against police officers. A monthly report is to be submitted to the Authority and the Commissioners by this office in respect of the investigation of any complaint.

Clauses 11 to 20 make provision for the manner in which complaints may be handled and for their formal and informal resolution and also for the submission of quarterly and final investigation to the Commissioner and the Authority.

"12. A complaint may be made in the prescribed form at

1. any police station;
2. the Complaints Office; or
3. the office of the Authority."

Clause 18 indicates a number of options available to the Authority if, in their view, on receipt of the final report, the investigation was not conducted satisfactorily. This includes directing that the matter be further investigated or directing that any witnesses be interviewed or re-interviewed.

Clause 19 indicates the opinions and options available to the Commissioners after consideration of the final investigation and any request from the Authority. These include referring the matter to the Director of Public Prosecutions in the event of a criminal event and instituting disciplinary proceedings.

Clause 20 makes provision for the Commissioners, with the approval of the Minister, in respect of the handling, investigation and disposal of complaints by the Complaints Office.

Clauses 26 and 27 include provision for those persons who breach confidentiality or in any way try to obstruct the work of the Authority.

Clauses 29 and 30 mandate the Authority to submit a statement of accounts to the Auditor-General in respect of each financial year and submit a general report to the Minister on the discharge of his function.

Clause 30 makes provision for the making of regulations by the Authority in consultation with the Minister.

Clause 1 of the Schedule makes provision for the constitution and appointment of the Authority and stipulates an Attorney-at-Law of at least ten years standing as

Chairman and four other persons to be appointed by the Governor-General at his discretion.

The Attorney General has developed this Bill and he has been committed to formalising the arrangements by which the accountability of the Police Force has become more transparent and where citizens have the right of redress in the event of an abuse of power or authority. This is being done prudently, carefully and with due consideration. It puts a legal framework in place to make sure that an independent authority can review the actions of the Police Force. It gives every citizen in this country the right to an independent hearing and redress in the event that there has been an abuse of power.

I think that this legislation has been long overdue and I really do commend the Attorney General for grappling with this very thorny issue and having the courage and dedication to bring this to Parliament and to bring this piece of legislation to our books.

There are many who resent this legislation. However, I do feel that there are many who will applaud it and who will recognise that this will improve the professionalism of our Police Force and give us a measure of enhanced oversight which has been long overdue. It will give people a growing confidence in the Police Force and its discharge of its duty and, in the long run, will lead to greater cooperation between the general public and the Police Force. This in turn will lead to a better prosecution of criminal activity in our society.

This piece of legislation has far-reaching consequences which will go a long way to strengthen the Police Force, strengthen the community involvement with the police and strengthen the capacity of the civil society to deal with the issues of crime in our society.

Mr. Deputy President, I beg that this Bill be now read a second time.

SENATOR Mrs. P. E. RICKINSON: Mr. Deputy President, I rise to support wholeheartedly this Bill.

Sir, in general I would like to see a reinvestment in the administration of the police not only in the form of complaints but also that it is responsive to the public

concerns and to the police operations. We know that the public must have confidence in the police and the police need respect from the public. I feel that in future we need to look at the police in a broad way. I want to make it clear that I support the Bill because this is the best that can be done, given the circumstances, but the Bill sends the wrong message and sometimes perceptions can become a reality.

I know there is a Police Commission but I would like to see this Authority incorporated in some way with the Commission to deal with public concerns so that we can reinvest the Police Force.

Sir, we have to do a lot of public education so that the public can view the police in a better light than at present. I am not saying that the police abuse people but some people feel they are not treated the right way. I do not know if it is the way they approach some persons in the community, but we need to get the formula right so that the public can work with the Royal Barbados Police Force because whenever something happens we call the police first. They need us and we need them. I hope that in the future we can find a way to reinvest the Force and get more comprehensive legislation.

I support the Bill. What I would like to see is this Complaints Authority being incorporated in some way into the Commission to deal with public concerns instead of having a separate Commission, whereby we can have a sort of reinvent... we cannot do it unless we reinvest the Police Force. You cannot just start restructuring and juggling them, because you would just come up with what we have here known as a Police Complaints Authority.

And with that, I do support the Police Complaints Authority Bill, 2001.
3.55 p.m.

Mr. DEPUTY PRESIDENT: Senator Collymore.

SENATOR B. R. COLLYMORE: Just a few comments. I believe that for a long time people have been asking for some form of vindication against complaints and it would have been unlikely that this Police Complaints Authority Bill, 2001, could have been achieved without the enactment of some legislation.

However, I am a little concerned about the opportunity conflict that the legislation will create. The conflict will be the Police Service Commission, in spite of clause 4 (2) which says –

“subject to the provisions of the *Constitution* relating to the powers of the Director of Public Prosecutions and the Police Service Commission, the Authority is not subject to the directions or control of any other person in the exercise of its functions under this Act...”

I think that normally if a Commission is carrying out an investigation into any form of indiscipline or any matter relating to a public officer, the Commission will discontinue its investigation if there is a parallel criminal case being carried out. So, in this case it is possible that a Policeman might be under disciplinary investigation by the Police Service Commission, not in a criminal case, but in a matter which essentially could be a complaint made under the contents of the legislation.

It seems to me unless there is some mechanism for ensuring that there would be an avoidance of conflict with the Police Service Commission, that could be a problem.

To get this legislation in place it is necessary to set up two new sets of public officers. I think that the Authority is that you have a staff of public officers, as clause 6 said, and then the Commissioner himself is required to establish a complaints office when an investigation is being carried out and the Authority makes the report, section 9 said that –

“On completion of a direct investigation, the Authority shall

1. submit the report thereon to the Commissioner...”

meaning the Commissioner of Police and that seems to me to be allowing too much power to reside still with the Commissioner of Police. The report must be submitted to the Commissioner and the Authority would be making recommendations to the Commissioner, and I am a bit unhappy about that. And, of course, as I said, the whole question of setting up a new office called a Police Complaints Office as well as the establishment of staff for the Complaints Authority, seems a pretty expensive way to go unless we are going to get substantial results. One of the things which one would want to know is whether in practice, at present, there is such a large number of complaints – I do not mean in the case of every person being charged – saying that the police beat them up, because then you would have a whole list of complaints. But I mean if there are other complaints, in our own experience, which you think would

require such an elaborate set-up to deal with them and I would be happier if there was a way of not involving the Commissioner of Police at so many stages of this new activity.

I have no quarrel with the Commissioner of Police. If you run an organization, there is a high degree of organizational lapse that perhaps might prevent matters from being processed in the way as they should be. Where the Commissioner, in this case, will determine whether you go ahead with the complaint, or whether it is a sufficient complaint or not, the Commissioner has control over the complaints, where the Authority must submit the report to the Commissioner.

I probably will not have time to observe this, but in my own experience what happened is that in professional organizations where the profession regulates itself, there is cause for the public to be unhappy about how matters of this sort are adjudicated. And that is my only reservation on this proposal.

Mr. DEPUTY PRESIDENT: Senator Newton.

SENATOR Mrs. V. E. NEWTON: Mr. Deputy President, I rise to support this Police Complaints Authority Bill, 2001, but I have a few reservations about a number of matters and the way in which they are handled in the Bill.

First of all, I think that the mechanism for getting complaints to the Authority is a bit cumbersome and as Senator Collymore mentioned, I think they are likely to cause problems.

Complaints may be made in the prescribed form at any Police Station, the Complaints Office, or the office of the Authority.

Now, Mr. Deputy President, I, myself, have had the opportunity of making complaints to police stations about a number of matters, and I have never been impressed by the way that they have taken the statements and dealt with the information being given and I have the feeling that persons who attempt to make complaints to the police stations, may well, either because of the way they are received or the information is being handled, feel intimidated in their efforts to do so. And I am not at all comfortable that that is the best way to proceed.

I believe that if a Complaints Office is being set up, that it should be located in a place that is accessible to persons wanting to make complaints and that all complaints should be made at that place and not in so many different places. This is in spite of the fact that the legislation provides for giving receipts, *et cetera*.

The second point which I would like to make is that if the Authority is supposed to be operating as an independent entity, like Senator Collymore, I am a bit concerned about the expenses and in my view, excessive involvement of the Commissioner of Police in the whole process.

Many of these complaints will be, I suppose, against the way that the police are operating in the aspects of their operations and it would be far better if the Office was one which was removed, to a greater degree, from the Police Force that the complaints were being brought against. I think that people would have more confidence in the way that it is going to operate and I think that altogether it will be a tidier operation.

Clause 6 (1) sets out –

“The staff of the Authority shall be public officers and that offices of the staff shall be in accordance with the Civil Establishment Act.”

Now, pardon my ignorance if I am wrong, but if the Authority is being set up as officers of a statutory body, I am wondering if it is usual for the staff of such bodies to be established under the Civil Establishments Act. I may be wrong, and I stand corrected.

Asides.

SENATOR Mrs. V. E. NEWTON: Senator Collymore has informed me that there is precedence; not necessarily one that works well or is best.

Mr. Deputy President, with those comments I will take my seat because, unfortunately, I did not have the time to study the Police Complaints Authority Bill, 2001, as thoroughly as I would have liked, and I do not want to talk foolishness. I thank you.

Mr. DEPUTY PRESIDENT: Senator McClean.

SENATOR LeR. H. McCLEAN: Mr. Deputy President, this piece of legislation before us in part seems rather strange. It seems to me that you are establishing an Authority which does not really have much authority, because much of the responsibility for the investigation of complaints still rests with the Commissioner of Police and in fact, it is really the responsibility of this piece of legislation with the Commissioner.

Clause 20 says:

“The Commissioner may, with the approval of the Minister, make rules in respect of the handling, investigation and disposal of complaints by the Complaints Office...”

I find that a strange clause in the context of the establishment of the Complaints Authority and the function of the Authority, the first thing is that it is to monitor the investigations by the Police Force in any complaints with a view to show that any complaint is conducted impartially.

Then, apparently the Complaints Office still has considerable authority, because you have in clause (10):

“The Commissioner shall for the purpose of this Act, establish and maintain a Complaints Office of the Police Force (by whatever name called) which shall be responsible for

- (a) investigating complaints made by members of the public against police officers;
- (b) submitting to the Authority and to the Commissioner, a monthly report in respect of the investigation of any complaint or matter that is being supervised by the Authority.”

So the Complaints Office still seems to have a very pivotal role in the whole exercise, particularly, when we look at clause 13(2):

“Where a complaint –

- (a) is made at a Police Station it shall be forwarded to the Complaints Office;
- (b) is made at the office of the Authority it shall be forwarded to the Complaints Office.
- (c) is made at the Complaints Office, a copy shall be forwarded to the Authority.

So if the Complaints Authority receives a complaint it has to forward that complaint to the Police Complaints Office. I can understand if it is submitted to the Complaints Office that a copy goes to the Authority, but I do not understand if it goes to the Authority that the complaints must be forwarded – not a copy – to the Complaints Office to come back to the Authority again, because the investigation will be done by the Complaints Office.

So, it is still a case – I do not know if there is a significant difference from what presently obtains, because it still comes back to a case where the police will be investigating complaints against police and I think that what many people have been asking for is a truly independent body to investigate complaints against the police.

To me, this seems like a strange manner in which this legislation is drafted, but Mr. Deputy President, I think what concerns me more is that whereas there are members of the

public who might justifiably believe that there is need for an independent and impartial body to investigate complaints against the Police, there is also, in my view, a need for investigation of a complaint from the police, because the police themselves seem to have several grievances which do not seem to be properly addressed under the present system.

It might seem to be a source of concern, the fact that we have the police themselves having several grievances, but we must consider at present in this country, Mr. Deputy President, there are some worrying situations.

We have, on the one hand, several people who because of the way in which the police are looked at now, the police are seen as being underpaid and overworked, *et cetera*, and there are people who adopt a position of believing that the police officers in this country are some inferior set of people in comparison to them and therefore, they do not treat the police with the kind of respect that is due to them.
4.15 p.m.

However, we also have instances where the police themselves, when they come in contact with certain people, believe that they must treat these people in a particular way because they say that, "Well, it seems that you feel that I am less than you, so therefore I am going to show you who is boss". Sometimes we find that the police could have a very coarse and abrasive attitude towards these persons when they are dealing with certain matters.

Sir, that is not to say, however, that people have any justification in showing disrespect for the police of this country and behaving in a disrespectful manner towards them in the execution of their duties. Sir, while we are looking at this matter of investigating complaints against the police, it must be seen as a truly independent investigation. In my view, this legislation does not give the impression that it would really be an independent investigation because it comes back to the case where the police will be investigating the police and the Authority is only there to ensure that this investigation was carried out fairly or adequately. Again, the Authority still has to rely on the report from the investigating police so it is, in my view, a little confusing.

I think that if it is going to be a truly independent body, that body must have persons at its disposal who have the policing and other investigative skills that they can carry out investigations, rather than having to rely on the police to carry out investigations with respect to complaints against the police.

Sir, on the one hand, if we are going to have that body, we need to make sure that it is really a truly independent body but at the same time, Mr. Deputy President, I would not want the impression to be conveyed that the police in Barbados have reached the stage where there is this great

need for scrutiny of the behaviour of the police. I am sure that there are instances when people are aggrieved or not satisfied with their approach or maybe not even satisfied with the manner in which they investigate certain matters but I would hope that the standard in our Police Force would not reduce to the level where we believe that we have a Police Force in which we cannot have the fullest confidence because the day that happens, we will know that we will have a serious crisis in our society.

One way of ensuring that we can have policemen who will be truly committed to their jobs is to ensure that they have the resources and the facilities which would allow them to carry out their jobs properly and that you create the climate that would reduce the frustration which they might feel from time to time. They would not then be tempted to vent their frustrations on the general public with whom they have to come into contact.

We must look at this, Mr. Deputy President, from all angles: that there is fairness, that the public can feel that there is justice and fairness when they are dealing with the police and that they should not have to fear any unprofessional conduct from the police. At the same time, we want to ensure that the public give the necessary support and also that the authorities give the police the resources and the support that they can approach the job in a professional manner and feel confidence rather than frustration when they are dealing with the general public in carrying out their duties.

With those few words, I would like to say, thank you, Sir.

SENATOR C. A. MASCOLL: Mr. Deputy President, the Police Force is perhaps the only organisation in which a member of staff may perform some function for which there is a complaint and that within the structure of that organisation there is the absence of a disciplinary committee.

As a result, this Bill which seeks to establish a Police Complaints Authority seems to find comfort in the fact that it can establish a separate entity, staffed by individuals who do not belong to the organisation, who can then seek to execute whatever form of punishment they care to execute on a guilty party within the Police Force. Now, I find that exceedingly hard to understand but I find it particularly difficult because, as is typical, there seems to be a rush to have this Authority put in place. And why should I complain about that?

SENATOR THE HON. P. C. GODDARD: On a point of order, Mr. Deputy President.

First of all, the Honourable Senator is misleading the Senate by saying that the Authority could impose any sort of

punishment it would like upon the Police Force, which is clearly not so.

Secondly, it was clearly stated that this Bill is the result of long and purposeful consultation since November 1998. There is no rush and there is nothing rapid about this. This is a measured and thought-through process and therefore the Honourable Senator is misleading the Senate in his comments and he is trying to influence the Press.

SENATOR C. A. MASCOLL: Mr. Deputy President, I am speaking to the Chamber, I do not speak to the Press.

Mr. Deputy President, I reiterate that this is perhaps the only organisation where there is no internal body to conduct such affairs. If there is an existing internal body, why do you need to have a Police Complaints Authority?

SENATOR THE HON. P. C. GODDARD: Mr. Deputy President, on a point of order. In the Police Act, there is a disciplinary body established and therefore, if the Honourable Senator does not know this, he should go back to the legislation and read it before he starts making comments.

Certain remarks made by SENATOR MASCOLL were ordered expunged from the record by Mr. DEPUTY PRESIDENT.
4.25 p.m.

I am suggesting that the members of the Police Force who are being put in a position where a Complaints Authority has been established are only human beings who conduct the affairs of the Police Force and are workers similar to any other worker in Barbados. They are, and it has been agreed, special because of the circumstances surrounding the kind of job that they have and the dangers associated with the job.

I am saying that it is a mere question of the policemen not being in a position where they can adequately be represented from within the ranks of the staff. All organisations that I know of have established all kinds of committees such as disciplinary committees and establishment committees in order to conduct the affairs of their staff.

SENATOR THE HON. P. C. GODDARD: On a point of order. The Police Association represents the interest of the police. You will recall, Mr. Deputy President, that this Honourable Chamber changed the legislation which gave that body the right to associate with trade unions. The Honourable Senator has a short-term memory loss.

SENATOR C. A. MASCOLL: I am saying that the Police Force is part of the public sector of Barbados. We

were told that there are many issues that have to be dealt with in terms of management to make the public service of Barbados more efficient. This must constitute part of the overall performance and attitude of the members of the Police Force because we are saying in essence that we are allowing an Authority to be established to investigate complaints, the work and the affairs of the members of the Police Force.

Why is it, therefore, that all the other sections of the public sector are being taken slowly through a process of public sector reform which is designed to make them more efficient and designed to allow them to execute their workload or work effort much better? Why is it that the thinking here on the Police Force is completely at variance to what is taking place in the wider public service? In short, we are saying that throughout the public sector of Barbados we are putting systems in place to guarantee that the various sections of the public sector are able to execute their work programme and to execute it more efficiently in this new environment. Why should it be that in this instance the Police Force is singled out for an Authority to be established that can allow people to make complaints and then this Authority is able to do all kinds of things in order to justify, if they are seeking to justify, the views of those who complain against the Police Force?

I make that point because if the work effort of the members of the Police Force is affected by this exercise it means that in some way it must damage either their morale or their capacity to function within the Police Force. So how come, when the effort was made to increase the compensation for the members of the Police Force that those who approached Government were told that there is a pending reclassification exercise to come throughout the length and breadth of the public service within which the Police Force will fall but as it relates here to making some approach about the performance of the members of the Police Force about the ability to bring them under scrutiny, the Government is now able to bring to effect a Police Complaints Authority prior to the overall...

Mr. DEPUTY PRESIDENT: Senator, in my view reclassification of the Police Force or any other department of Government does not fall under what this particular Bill is dealing with. This does not deal with...

SENATOR C. A. MASCOLL: This particular Bill deals with the performance of members of the Police Force.

Mr. DEPUTY PRESIDENT: In a particular capacity.

SENATOR C. A. MASCOLL: How do you mean in a particular capacity?

Mr. DEPUTY PRESIDENT: There is a point of order. Will the Honourable Senator please take his seat?

SENATOR THE HON. P. C. GODDARD: On a point of order. Mr. Deputy President, if the Honourable Senator would look at clause 7, he will see that the Authority shall supervise the investigation of:

1. "any complaint alleging that the conduct of a police officer resulted in the death of or serious injury to some other person."

Mr. Deputy President, the Honourable Senator is confusing normal performance of everyday duties with exceptional occurrences that happened in the course of police activity. The Honourable Senator is deliberately trying to confuse the issue for the purpose of this Authority. It is not...

Asides.

Mr. DEPUTY PRESIDENT: Will Senator McClean allow me to decide or would you like to take the Chair?

SENATOR LeR. H. McCLEAN: I will allow you to decide. I do not want to take the Chair.

Mr. DEPUTY PRESIDENT: Well then, would you please be quiet while the Senator is on his feet, please?

Asides.

SENATOR THE HON. P. C. GODDARD: This is not a general review authority for the normal activities of the Police Force, and the Honourable Senator is purposely misconstruing the objectives of this Bill.

SENATOR C. A. MASCOLL: Mr. Deputy President, there is no one who can determine whether or not there will be a death on any particular given day in the execution of some effort on the part of the police. No one can predetermine what would happen on a given day. I am saying that on a daily basis in the execution of his or her work, a police officer may encounter some unfortunate incident and this is stated at Clause 7 and I am going to quote from it:

1. "Any complaint alleging that the conduct of a police officer resulted in the death of or serious injury to some other person..."

What I am saying is how do you know? Is it not during the course of his or her work that such can occur? Of course it is. So you cannot predetermine what would occur. I am saying that in the execution of his or her work an unfortunate

circumstance may occur that can give rise to this clause. This clause cannot be specific. This clause cannot be isolated because it can happen during the normal course of duty. So how could we have a situation in which an Authority is to only investigate special circumstances. How do you determine "special circumstances"? How do you determine that in the course of attending to a robbery or some other such things that a police officer may not put himself in a situation where a death occurs? Does that not have anything to do with special circumstances? Is that not an unfortunate situation? So, therefore, I am entitled to speak about the duties of the police officer within the context of this legislation and the Authority cannot confine me.

Asides.

SENATOR C. A. MASCOLL: I was asked to repeat. It continues:

2. "Any other matter, whether or not the subject of a complaint, referred to the Authority by the Commissioner, which in the opinion of the Commissioner, should be supervised because of its gravity or its exceptional circumstances."

4.35 p.m.

Sir, this is very vague language. It does not have to be a special circumstance, Mr. Deputy President. I am saying that any such event can occur during the normal course of duty of a police officer. Therefore, I do not see how I can be prevented from discussing the normal course of duty of a police officer. I have every right to look at whether or not the police officer is executing his or her duty efficiently and effectively so that I can come to some decision as to whether the police officer is being effective or adequate in the execution of his job. As a result, I can ask the question why it is that we have a situation in which this could not be dealt with under public sector reform.

SENATOR THE HON. G. S. H. MURRAY: Mr. Deputy President, on a point of order. The Honourable Member is obviously confused and he is seeking to confuse us too. Public sector reform deals with general administrative everyday function. I hope the Honourable Member knows the difference between a complaint and a function. In the course of a function there might be cause for a complaint but this Authority is set up to investigate complaints. He does not understand and then he talks about people having a low esteem of economists.

SENATOR C. A. MASCOLL: Mr. Deputy President, if it is accepted that you can have a complaint in the normal course of duty, how can I be prevented from discussing the normal course of duty. Therefore, I am saying that this legislation seems to me to be a rush to look at the overall conduct of the members of the Police Force. This is an

assessment of the conduct of the members of the Police Force. This is special circumstance but no one can determine the special circumstance. The special circumstance can occur on any given day and as a result, I am asking how can I be prevented from tying that into the overall assessment of the management of the Police Force and the execution of their duties in the given course of a day or week.

As a consequence of all of that, Mr. Deputy President, I am suggesting that we should have had an across-the-board establishment in the public service, not only for the Police Force but an across-the-board establishment that looks at complaints throughout the entire public service.

SENATOR THE HON. G. S. H. MURRAY: Mr. Deputy President, on a point of order. Again, the Honourable Member is misleading the Chamber. We have the Public Service Commission and the Public Service Administration Department so there is a system already in place that deals with complaints. Sir, the system already exists.

SENATOR C. A. MASCOLL: Sir, if that is so, why is it that we are seeking to establish a separate entity called a Police Complaints Authority. If they are special, they ought to be treated special in every regard. They ought to be treated special and, therefore, the same way in which you can bring a Police Complaints Authority, you could have sought earlier on to re-grade them because you admit that they are special and that they encounter a very difficult time in the execution of their duties. So why do you not see that policemen are special when it comes to compensation but they have to wait until there is reform within the entire public service before they can get a regrading which we all know they are deserving now? You see them as special in this regard when you can establish a complaints authority.

Mr. President, this is about managing the affairs of the Police Force, managing their workload and being able to effectively execute all the objectives and standards that they wish to meet. We have a situation where we understand that but now they are no longer special when they have to be evaluated for special circumstances.

Mr. Deputy President, I am suggesting that this Police Complaints Authority is a hurried piece of legislation designed to examine thoroughly the affairs of the Police Force. It does not require any special particular circumstance for that to happen. In the execution of their jobs, in any given day, we can have an unfortunate incident giving rise to the calling into action of the Police Complaints Commission which I find not to be appropriate at this stage. I am saying that the same way in which you can recognise all of this you must recognise the overriding confidence and expression of confidence by the public in this particular part

of the public service and the need for special remuneration which they do not seem to be able to get at this stage and will not get in a regrading exercise.

Sir, I am very concerned about this piece of legislation. 4.45 p.m.

SENATOR D. D. MARSHALL: Mr. Deputy President, I would hope to be able to give my presentation without too many interruptions from the Other Side. I did derive one very useful morsel from the learned Senators and that morsel has to do with confidence. I believe that he was speaking, perhaps not eloquently, but speaking, nevertheless, of the confidence that the society has in the Royal Barbados Police Force and the confidence that they must have in the settlement and dealing with complaints.

Mr. Deputy President, there is no doubt that in the course of the conduct of the police of their duties, from time to time there may be circumstances which may give rise to an investigation. The piece of legislation before us sets out specifically the purpose of the Authority. It says:

5. (1) "The functions of the Authority are to

(a) to monitor the investigation by the Police Force of any complaint with a view to ensuring that the investigation is conducted impartially."

Mr. Deputy President, this is an idea which for too long members of the public have harboured an abiding concern that their complaints to the existing disciplinary committee have not properly been dealt with. They have harboured an abiding concern that the system is such that it militates against a member of the public receiving or achieving proper redress in a satisfactory response.

There are, of course, alternatives that one might think of setting up an entirely impartial body. We do have to recognise that we have spent millions of dollars over the years in training the police officers and we have to accept that it reposes within those very individuals the skills and the ability to conduct the kinds of investigations that section 7 talks about.

Section 7 talks about the conduct of a police officer resulting in death or serious injury, or some other situation which is referred to by the Commissioner because of its gravity or exceptional circumstances. Effectively, when we have these serious kinds of complaints, we have to rely on the forensic and investigative skills of the very Royal Barbados Police Force in whom we trust and in whom we rely.

Sir, to do other than this, would mean that we will have to set up an entirely new police department with exactly the same skills and ability to police the police. Such an act on

our part, would be, in fact, to destroy the complete morale of the Royal Barbados Police Force. The moment that you set up a situation where a guard has to guard a guard or another Police Force has to investigate the police, it would immediately, in one fell swoop, disrupt the morale and the operation of a body in which, and I have to rely on the word of the learned Senator, the people of Barbados must place their confidence.

We cannot on the one hand say that the people of this country have to be confident that the police are going to discharge their duties and to discharge their duties *vis-à-vis* ourselves the citizens, while we say that on the other hand that somebody else must investigate them.

Therefore, the point is, that this piece of legislation...

Mr. DEPUTY PRESIDENT: On what point does the Senator rise?

SENATOR V. E. NEWTON: On a point of order. I would like to draw the Senator Marshall's attention to section 8. (2) which says:

"The Authority, the investigative staff of the Authority and any other person authorized by the Authority shall, in the exercise of their duties under section 5 (1) (c), have the same powers and privileges as are given by law to a police officer."

Sir, that section seems to contemplate that Authority will have its own investigative staff. That is what it seems like to me.

Mr. DEPUTY PRESIDENT: That is a point of information.

SENATOR D. D. MARSHALL: My point is not that the Authority will not have the investigative powers, they do. What I am saying is, that we cannot be seen as setting up another police department to police the police.

Asides.

SENATOR D. D. MARSHALL: The staff has the powers and privileges that are given to the police officer.

Asides.

SENATOR D. D. MARSHALL: Mr. Deputy President, you have ruled and I will move on.

Suffice it to say, I do not agree with the conclusion that Senator Newton has reached.

Mr. Deputy President, this piece of legislation, therefore, sets up a situation where we are able to monitor investigations where for the first time a body outside of the Royal Barbados Police Force will have oversight. It is this oversight, sometimes, that produces the result that you want, not necessarily that people are there and are able to inter-meddle but that there is oversight. It is that oversight that may well serve the ends of this legislation more than any investigative powers. It is noteworthy that the Authority has the right, not only to investigate complaints directly, but also to supervise the other investigations. At the end of this process, the Authority is able to make recommendations to the Commissioner of Police.

Sir, this is an interesting approach that this Government has taken. No way in the legislation is the Commissioner of Police compelled to follow the recommendations. We have to remember that the Commissioner of Police is still the Commissioner of Police and we cannot set up a body which acts in such a way as to strip him of any powers and to render him an emasculated being. The Authority is able to make recommendations to the Commissioner but the Commissioner is not bound to accept those recommendations. What is important is that he cannot disregard the recommendations. If he chooses not to follow those recommendations, he has to respond setting out his reasons for so doing and he also has to respond to the Governor-General.

Sir, this piece of legislation, in my view, has been carefully crafted. I have heard the criticisms from the Other Side which, I believe, they were suggesting that it might amount to the police being more than the judge in their own cause. In my view, the legislation goes as far as it needs to go. It is appropriate in terms of its response; it is appropriate in terms of the amount of the involvement that it allows the Police Force to have and we have to remember that it is not an Authority that is going to be dealing with minor matters. In fact, it establishes in section 15 (1) that the Commissioner may direct the complaints office not to investigate frivolous complaints.

What we are talking about are situations where the conduct is grave or exceptional or where the conduct causes serious injury or death. Sir, those are the kinds of complaints that the Authority is contemplated to have. There are, of course, a large range of complaints that members might want to refer to the Authority but those have to be dealt within the existing arrangement.

I believe that the Government has tried and has succeeded in walking that fine line between allowing the police to do their duty even when it comes to doing their duty as far as their own members are concerned and, on the other hand, satisfying the public that their interest is being

served. In those circumstances, I have no difficulty whatever in supporting this legislation.

SENATOR THE HON. G. S. H. MURRAY: Mr. Deputy President, I would like, at the outset, to seek to defuse Honourable Members' minds that this is a hastily contrived piece of legislation which is seeking to mask any other issues that might obtain in the Police Force.

The decision to set up a Police Complaints Authority is something that has been broached by the Barbados Labour Party in its Manifesto in 1994 and 1999. As the Honourable Leader of the Senate said, a working party was set up in 1998 to begin work to see how we can bring this to fruition. Sir, this working party, if I might give the Senate some information, comprised the Commission of Police; Assistant Superintendent Frankly Lewis; Assistant Commissioner Darwin Dottin; Inspector Deighton Mayers; from the Police Association – Sargeant Hartley Reid; Constable Richard Alleyne and other members were Professor Ken Zacharias; Mr. Hallam King and Mrs. Rolanda Williams, a Senior Parliamentary Council.

Sir, this is an issue which has obtained, not only in Barbados and the Caribbean, but wider afield where people have complaints against the police. It has obtained in England, California, New Zealand, Australia and Canada. They have looked at the various models and how these countries sought to deal with this phenomenon. Since the Police Force was set up in 1835, incidentally Barbados is regarded as having the second oldest Police Force in the world outside of Britain, which tells you something of this country's tradition and inherent love for law and order.

The point is that all along there were complaints that policemen should not be their own judges that it was inherently wrong and that it was frustrating the course of natural justice if people were made to investigate themselves. After repeated complaints and a ground-swell of these kinds of complaints, the Government sought to go one step further and sought to bring in an independent body; independent, not in the sense that it has nothing to do with the Police Force but independent in the sense of the persons who constitute the body. The independence of the Authority comes, not from the fact that it will have its own investigative team, its own squad car, its own grave digger or whatever. The point is, the independence comes from the integrity and professionalism of the persons who shall constitute the Authority. So that is what the Authority has done and another thing is that those persons will not be allowed to compromise the integrity of the Authority and as a result, such persons as I shall enunciate now, have no right to be on the Authority.

4.55 p.m.

1(5) No person convicted of a criminal offence is eligible to serve as a member of the Authority, unless the Governor-General in any special case otherwise directs.

1(4) No person shall be eligible to serve as a member of the Authority if that person is or was during the last five years;

- a. a member of Parliament;
- b. a candidate for election to membership of the House of Assembly;
- c. a member of the Police Force;
- d. a member of the Barbados Defence Force;
- e. declared bankrupt or has been moved against by his creditors.

Those are the persons who have been prohibited from being members of the Authority by law, so therefore, Sir, this is an attempt where in the past the Police Force has been carrying out its own investigations, the crucial difference, as Senator Marshall has indicated, is that there is now someone to oversee the way that complaints are being investigated. In the past, the police have investigated themselves and that was that. Now, they will have the knowledge that there is an Authority with its own powers, rights and responsibilities, which will be overlooking their shoulders. Therefore, I am sure that the good old maxim "*the eyes of the master fatten the beast*" will obtain – and that beast is not a black belly sheep as I will generally repeat.

The point is that they will now have an oversight which will, I am sure, make persons adhere to even higher standards of professionalism.

That apart, Sir, if the Police Complaints Authority is not satisfied with the investigations there is another recourse. It can also initiate its own investigation and when so initiated it can mean that persons conducting those investigations will have the powers of a police officer.

Senator Collymore quite rightly raised a question of cost and unlike Senator Marshall said setting up another body staffed by other persons with the skills already obtained within the Police Force would be much more extravagant and costly and the Treasury cannot afford this. But the point is that these skills now exist. There is a now well established system of investigation which is overseen from within the Police Force, but now we are having an outside body which will oversee the conduct of the investigation by the Police Force. That is it and in truth and in fact, I see it as a very progressive step. I see and it is as an attempt by Government

to deal with the increasing concerns of persons over the years and where persons, for example, become more fully aware of their rights under the law, *et cetera*, and therefore, that sanction obtained in the normal procedure.

At the present time, if an officer is under investigation, he can be sanctioned, but as Senator Marshall said you cannot now have a whole new regime where you can have a state within a state to oversee the Police Force, where you can have a super Police Force. It is untidy and messy and would create all kinds of bad relationships within the Force and that was obvious.

This law, incidentally, is modelled on what is obtained in some of the Caribbean countries, Trinidad and Jamaica and elsewhere, so therefore, this is not some insidious piece of legislation hastily crafted by Government in the dead of night trying to outdo the Police Force. This is an incident which has been obtained since November, 1998. It has been carefully examined and this is the result of it.

As to the spurious arguments by Senator Mascoll seeking to link the request of the Police Force for a regrading against this Police Complaints Authority Bill, we have had request for regrading from nurses, policemen, fire officers, persons from all levels in the Public Service and quite rightly, the point has been taken that we will do a general regrading. Now, if we were to re-grade the Police Force separately, in a system where there is a multiplicity of anomalies, what would be the bench-mark? Who would you be comparing them against to arrive at the true value of their job and performance? So that is why a general regrading system has to be scientifically done in a much more objective way and that process is well underway and involves the Police Association, The Congress of Trade Unions and Staff Associations of Barbados (CTUSAB) and several other bodies. We are devising a system which will meet the needs of every sector of Barbados.

We do not intend to do any *ad hoc* regradings that took place in 1989, when even within the Police Force, Mr. Deputy President, that regrading system was done. The complaint then was that some members of the Police Force went home with a wheelbarrow full of money...

Asides.

Mr. DEPUTY PRESIDENT: Senator, allow Senator Murray to speak. When you give, you have to take. When Senator Mascoll raised the issue and I tried to tell him that it did not come into this Bill, you supported him to continue to disrespect the Chair and to carry on that line of argument. Now that you are getting it back you have to take it. And be silent please.

SENATOR THE HON. G. S. H. MURRAY: Sir, if we were to follow Senator Mascoll's argument, his illogical and ridiculous conclusion, you would expect that complaints from policemen about the lack of vehicles as was obtained before – we could equip them with the highest type of equipment. The fleet of vehicles that you are now seeing on the Force did not come about by accident, it came about by a conscious decision of the Government to allow them to deal with the requests of the general public and therefore cut down on the complaints. Therefore, this is part of a coherent, well-structured approach, not a knee-jerk reaction to any posturing from anybody, especially the Opposition who, in the past, had sowed seeds of dissension against the Government by the Police Force.

Mr. DEPUTY PRESIDENT: Will the Senator please come back to the Bill now?

SENATOR THE HON. G. S. H. MURRAY: Sir, this is a much more comprehensive way of dealing with complaints, a phenomenon that obtains, not only in Barbados, but elsewhere and that point is that it is answering a social need. This piece of legislation, as I said, is very progressive and will allow people to feel more comfortable about how the Royal Barbados Police Force performs, a Force which has served us well in the past and which we are sure that, at its core, it is as professional and committed to Barbados as at any other time in its history. This will make certain processes more transparent and even-handed and that no longer will people feel that the policemen are being their own judge and jury in their own case. And I think that is going to make for a healthier relationship, not only within the Force but between the Force and the wider society upon whom the Force heavily relies upon for cooperation in the execution of its duties to protect all.

Therefore, Sir, I am not as concerned as other Members, Sir, because we are sure that by repaying the 8 per cent to the Royal Barbados Police Force and by giving them increases, re-equipping them and giving them special responsibilities among other things, we now have a Force that is showing results and I predict, Sir, the institutionalisation of this Police Complaints Authority will set up a system that they can feel better about themselves, more assured about how they operate with the public and they do not have to be worried when persons take willy-nilly potshots at them, at their own whim and fancy.
5.05 p.m.

Therefore, the Police Association which has been part of the process in creating this piece of legislation, Sir, is sure that this is going to help to re-establish the image of the Royal Barbados Police Force to its accustomed height. As I said, this is the second oldest organised police force in the

world. Every bit helps, even the repayment of the eight per cent helped in establishing their self esteem, businesses and their operations.

Therefore, Sir, I have the greatest pleasure in supporting this measure.

SENATOR THE HON. P. C. GODDARD: Mr. Deputy President, in rising to wrap up the discussion on this legislation, establishing the Police Complaints Authority, it is very clear that some members do not understand the difference between a disciplined force and the general civil service.

It is also very clear that they have never been part of a disciplined force and do not understand the *esprit de corps* that obtains within that corps. I might say that we can just put this down to a lack of experience and, I do not want to say a deliberate attempt but, perhaps, an attempt to confuse the issue within the minds of many outside of this Chamber.

Mr. Deputy President, I have no doubt that this Bill will strengthen the Royal Barbados Police Force. As I said in my opening statements, it will strengthen the confidence of the people of Barbados in the Police Force and together, it will develop a stronger policing in our community and a better approach to the fight against crime.

I commend this Bill to the Honourable Senate and beg that it be read a second time.

The question was put to the Senate and agreed to.

On the motion of SENATOR THE HON. P. C. GODDARD, the Senate resolved itself into Committee on the Bill, SENATOR THE HON. DAME PATRICIA SYMMONDS in the Chair.

COMMITTEE

Madam CHAIRMAN: The Senate is in Committee.

Clauses 1 to 33 inclusive were called and passed.

SENATOR THE HON. P. C. GODDARD: I beg to move that the Schedule be the Schedule to the Bill.

The question was put to the Senate and agreed to.

On the motion of SENATOR THE HON. P. C. GODDARD, Madam CHAIRMAN reported to HIS HONOUR THE DEPUTY PRESIDENT the passing of one Bill in Committee and Mr. DEPUTY PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of SENATOR THE HON. P. C. GODDARD, the Bill was read a third time and passed and cited as the Police Complaints Authority Act, 2001.

ADJOURNMENT

SENATOR THE HON. P. C. GODDARD: Mr. Deputy President, I beg to move that the Senate do now adjourn until Wednesday, 13th June, 2001 at 11.00 a.m.

The question that the Senate do now adjourn until Wednesday, 13th June, 2001 at 11.00 a.m. was put to the Senate and agreed to and Mr. DEPUTY PRESIDENT adjourned the Senate accordingly.
5.15 p.m.

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